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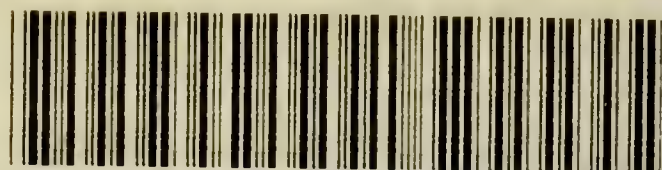
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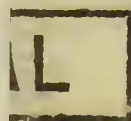
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HISTORICAL





THE BOROUGHES OF THE METROPOLIS.

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THE  
BOROUGH  
OF THE  
METROPOLIS.

A HANDBOOK TO LOCAL ADMINISTRATION  
IN LONDON UNDER THE LONDON  
GOVERNMENT ACT, 1899.

BY  
ALBERT BASSETT HOPKINS, M.A.,

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Rate Committees of the London County Council.*

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## PREFACE.

PROBABLY no statute of the same length has offered greater difficulties to an editor than that which forms the subject of the present volume. The provisions of the London Government Act, 1899, are in the main executory rather than executive; that is to say, it leaves to the Committee of the Privy Council, for whose appointment it provides, or, more correctly, to the Commissioners nominated by that Committee, the responsibility and the power of carrying into effect the various arrangements which the Act itself merely indicates. How varied and important are these powers and duties will be gathered from the summary of them given on pages 100 and 101. The commissioners have already made great and useful progress in the execution of some of the functions entrusted to them; for instance, in the adjustment of boundaries and in dealing with detached parts of parishes; but in regard to many of the matters which are to be provided for by scheme, it is impossible not to foresee practical difficulties in the way of fixing up a working arrangement, which shall be at once equitable, simple, and permanent. Take, for example, the task of making the necessary transfers and apportionments of property and of duties and liabilities in parishes which are now

for the first time brought into administrative union, or where local Acts or adoptive Acts are in operation over a part only of a borough. The requisite adjustments may involve the repeal or modification of local Acts, the application of the provisions of Part XI. of the Municipal Corporations Act, 1882, for the purposes of transfer and apportionment, the making arrangements to prevent the unjust incidence of rates or liabilities, and other equally irksome operations. To begin with, there is room for reasonable doubt as to the actual extent of the powers which are, as matter of law, really conferred on the Commissioners in the direction of meddling with what may be called vested interests. Under what circumstances would a scheme be *ultra vires*? For instance, in what cases may it be said that the inhabitants or the administering body have a legal right to be heard before a scheme of transfer or adjustment is made, so that if, by mistake or otherwise, they could show that they had not been adequately heard, an action would lie to annul or vary the scheme? The language of the Act is too general and summary to afford a plain answer to this and many similar questions that might be suggested. It is clear that much is required from the Commissioners in the way of foresight, courage, and judgment. On the other hand, these provisions for schemes are practically a new departure, at all events in the metropolis; so that little or no experience is available as a safeguard for the future against possible confusion, vexation, or injustice. Nor does the Act, nor do any of the many enactments applied by it, make any express provision for the amendment or alteration of arrangements once made.



The fact that the local administrative areas will not in all cases coincide with the parliamentary and county council divisions opens the door to other difficulties and to possible friction in the operation of making up the register of electors, which duty is imposed on the town clerks of the boroughs. It is true that the Committee of Council have power to make an Order in Council adapting the laws relating to registration to the provisions of the Act, but that power does not extend to transferring the actual duty of preparing the register to any other official, and it remains to be seen in what manner the committee will put the power into execution in those places where adaptation may be thought to be required.

It will be observed that the electoral areas for poor law guardians remain in many districts different from all the other local administrative areas, while the bodies appointing the assessment committees are in some instances the borough councils, and in others the boards of guardians. A redistribution of those areas would bring about, as an obvious accompaniment, uniformity in the appointment of the valuation authorities.

These difficulties and imperfections have been referred to, not as the subject of complaint (for it would, perhaps, have been too much to expect that a single comprehensive measure of local government for the metropolis could be passed in one session), but rather as indicating that the present Act is far from affording a final solution of that very complex problem. It may be confidently expected that amending enactments will be forthcoming before many sessions have past.

An entirely different region of perplexity consists in what may be denominated the extremely *referential* character of the Act. It is quite a patchwork of references to other enactments, and the volume of statutory matter that has to be read into it will be appreciated by a glance at the Index of Statutes at the end of the volume. It would be impossible, within any reasonable compass, to set out, textually, the whole of the enactments which are directly or indirectly applied by the Act; but the most important clauses, with the requisite adaptations, will be found in the Appendices, while the others are referred to, and for the most part summarised. It is believed that in this respect enough has been done to meet the requirements of those interested.

The historical sketch and the summary of the provisions of the Act forming the introductory part of the book may be thought unduly brief and wanting in detail. The temptation to dilate in both directions was considerable, but on the whole it was thought advisable to confine the reference to the past within the shortest limits, and to restrict the untechnical statement to the most important topics.

It is hoped that the running commentary in Part II. will elucidate the technicalities of the Act, but the text of the measure is, for the sake of convenience, given separately, and forms Part III.

5, *King's Bench Walk,*  
*Temple.*

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PART I.



INTRODUCTORY.

THE ROYAL SOCIETY  
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# THE BOROUGHES OF THE METROPOLIS.

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## INTRODUCTION.

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### SECTION I.—HISTORICAL SUMMARY OF ARRANGEMENTS AND PROPOSALS FOR METROPOLITAN LOCAL GOVERNMENT IN THE NINETEENTH CENTURY.

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**1. Local Administration prior to 1855.**—The London Government Act, 1899, is the last of a series of statutes which have been passed with the object of improving local government in London. The administrative history of the Metropolis, outside the City, may be regarded practically as having originated in the year 1855. Prior to that date a condition of utter chaos everywhere prevailed. In many places, and notably in districts which had become densely peopled with the poorest of the poor, there was not even a pretence of management, no public or quasi-public body existing at all for any sanitary purposes. And where there were such bodies their administration was usually a mere mockery of local government, the only reality of which was its entire freedom from control and its consequent inefficiency and extravagance. Miscellaneous and haphazard bodies of Paving Commissioners, Lighting Commissioners, Turnpike Boards, Directors of the Poor, etc., were scattered at random over the town, with no regulations for their guidance, no attempt at uniformity of administration, no

bond of union, no security for their proper performance of their functions. In most cases these bodies were entirely self-elected, and even where in theory the ratepayers were the electors, the process of election was conducted in a hole-and-corner fashion, and was utterly corrupt. Their powers usually depended upon local Acts of Parliament, which were extremely numerous, and were passed without any approach to harmony or system, and without any apparent consciousness on the part of the Legislature that the several areas dealt with formed part of one and the same town, or even of one and the same parish.

At this time of day it would be almost impossible, if it were worth the trouble, to obtain anything like a correct statement of the number of these petty authorities, or of their districts of administration. It was computed by Sir Benjamin Hall that they numbered fully 300, with a membership of about 15,000, acting under some 250 different local Acts. A summary of the facts in a single instance (by no means the worst that could be furnished) may sufficiently exemplify the state of things existing in the first half of the present century.

The area of the parish of St. Pancras was for purposes of paving, cleansing, dusting and lighting, administered by no less than seventeen distinct bodies of Commissioners, each independent of the others. Of these only four were even in theory elected by the ratepayers, the remainder being self-elected or appointed by proprietors. The total number of members was 412, who were distributed in entire irregularity from a Board of seven in the Harrison District, to a Board of seventy-five in the South-Western District—both of these Boards being self-elected. Nor was the number of members in any way proportioned to area, rateable value, or population. Thus the Board of Commissioners for the Camden Town District (self-elected), with  $4\frac{3}{4}$  miles of streets, numbered fifteen members, while that of the Lucas District, with little more than half-a-mile of streets, consisted of thirty-one. Certain turnpike roads in the



parish were maintained by Turnpike Road Commissioners ; and yet other roads were under the jurisdiction of a further body called the Directors of the Poor.

These various bodies derived their powers from at least thirty-five distinct local and private Acts of Parliament, mostly passed in the first quarter of the nineteenth century.

The following observations of Sir Benjamin Hall on the subject of the parish of St. Pancras, when introducing the Metropolis Management Bill, are instructive :—

“ The manner in which so many different Boards were created was this : When a person had some land which he wished to let out on building leases, he applied for an Act of Parliament. . . . .

“ In the Camden Town District there were fifteen self-elected Commissioners, of whom about seven attended. There was no treasurer. There were  $4\frac{1}{2}$  miles of road, and they spent £408 17s. od. for officers’ salaries, the whole expenditure for paving being £336, exclusive of lighting.

“ Take the Doughty Estate : rate 2s. 6d. in the pound ; there were eighteen Commissioners, and the sum expended for repairs £1 17s. 4d., whilst they were expending for salaries £183 8s. 9d.

“ On the Lucas Estate Paving Board they have about three-quarters of a mile of road, pay £38 19s. for paving, and £117 14s. for salaries and collection.”

The rateable values of the districts were found in 1856 to vary from £212,000 in the Southampton Estate District, to as low as £5,867 in the Lucas Estate District.

There were in addition three areas in the parish (two of them very poor and thickly populated) which had no Board or public body at all to administer them in the matter of paving, lighting, or cleansing.\*

It need hardly be said that under conditions such as these, not only were the lighting and paving defective and costly, but the conditions of sanitation were such as nowadays could hardly be believed compatible with human

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\* See Report issued by the Vestry of St. Pancras in 1890.

life. For the purposes of drainage, the removal of refuse, the abatement and prevention of nuisances, and other conditions of public health, the Metropolis was not defined; no general plan, however defective, was in operation, nor were any definite and enforceable duties laid upon even such authorities as existed. There were in some few districts Commissioners of Sewers, under Acts of Parliament of local operation, and the City Commissioners were established; but no Government had yet sufficiently recognised the unity of London to devise or provide any system of general application.

At length, in 1848, an Act was passed\* whereby a single Commission of Sewers was established for the whole Metropolitan area. The Act, though elaborate in its provisions, was avowedly temporary only; and while it was undoubtedly an important step in advance, its value lay, not so much in the actual work done under it, as in its suggestiveness as the precursor of the legislation of 1855.

The Commissioners under the Act of 1848 carried out their duties with vigour. They succeeded in practically getting rid of the cesspool system, and in establishing connections with the common sewer, but the arrangements for domestic conveniences in poor neighbourhoods remained utterly inadequate, and in numerous instances the conditions were too abominable for description. It was not yet fully realised that the formation of sewers and drains is not sufficient to ensure health and cleanliness, and to prevent filth and disease. Houses were built without regard to sanitation or ventilation, and even the obvious precaution of separating the water which was used for consumption from the domestic waste products and filth was, in the poorer districts, entirely disregarded. Medical officers of health, nuisance inspectors, and district surveyors were luxuries of the future.

The very operations of the Commissioners, from want

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\* 11 & 12 Vict., c. 112.

of the necessary arrangements which should have accompanied them, produced two evils of most serious magnitude, the results of which were felt for many years, and the diminution or removal of which involved immense trouble and cost. The substitution of drainage for the cesspool system caused the old cesspools to be discontinued, but failed to provide proper means for their excavation and removal. The result was that, in numberless instances, they were imperfectly covered over, or were actually built on, or left to exhaust themselves, and so became centres of pollution. To this day it is not unfrequently discovered, when a health officer is called in to investigate the cause of an outbreak of illness in a house, that there is an old cesspool underneath. In the second place, the sewage was discharged in its crude condition into the Thames. As if this were not bad enough, the arrangements were such that the discharge took place at low water only, by reason of the low level of the sewers. The rising tide closed the outlets, thus at once carrying the sewage up the river to be carried down by the ebb and added to the next day's supply, and at the same time causing accumulations of filth in the sewers themselves. In times of rain, floodings of the most revolting character in the houses were constant, and the offensiveness of the river itself, and of its banks, covered with vast accumulations of foul mud, was extreme.

Another circumstance must be mentioned as aggravating the evils of the inadequate system of administration above referred to. The greater part of the drinking water of the inhabitants of London was taken and was supplied direct from the Thames. Several of the water companies took their water from parts of the river between Hammer-smith and Waterloo Bridge. Their private Acts contained no guarantees for their supplying drinking water of sound quality, nor were they supervised by any responsible public officer.

Under such circumstances can it be wondered at that on the occasions when cholera epidemics broke out in this



country, the Metropolis should have suffered in far higher proportion than the rest of the land? In 1849 there were registered in the Metropolis 14,137 deaths from cholera, or at the rate of 62 per 10,000 of the population, as against 30 per 10,000 in England and Wales; and in 1854 the number in London was 10,738, or 43 per 10,000, as compared with 11 per 10,000 in England and Wales.

It is unnecessary to pursue the contrast in other respects between the conditions of life in the Metropolis before, and under, the operation of the Act of 1855. We know that many labyrinths of narrow streets and lanes have been replaced by well-made roads, that footpaths have been paved, that street-lighting has been improved (though much yet remains to be done in this respect), that the river has been embanked and the bridges freed from toll, that an admirable fire brigade has been established, that parks and open spaces have been formed, that various unhealthy areas have been cleared and disinfected, and that elaborate arrangements have been made under many Acts of Parliament for such supervision and control in matters in which the public health is concerned, as should ensure a large measure of immunity, even for the very poorest, from the danger of pestilence, or of disease from contaminated surroundings or vitiated food.

Before proceeding to the Act of 1855 we may recall the fact of the passing, in 1852, of the important Water Act of that year.\* By that measure the water companies were prohibited, at latest after August, 1856, from taking any water from the Thames for domestic use below Teddington Lock, and from conducting such water through open aqueducts; it required all reservoirs within five miles from St. Paul's Cathedral to be roofed or covered, and it called upon the companies to effectually filter all water supplied for domestic use.

**2. The Act of 1855.**—The first great step in the organisation of municipal institutions in England was taken

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\* Metropolis Water Act, 1852.—15 & 16 Vict., c. 84.



in 1835, when the Municipal Corporations Act of that year was passed. By that Act the corporate boroughs of this country were entirely re-organised, and their administration took essentially the form which (with many improvements) it has since retained. London was left untouched, although the Commissioners, on whose report the Act was based, strongly favoured its being treated in like manner as the other municipalities.

In 1853 a Royal Commission was appointed to inquire into the affairs of the Corporation of the City of London, and though the general question of Metropolitan government had not been referred to them, they recommended that the seven Parliamentary boroughs then existing in the Metropolis should be created municipalities in combination with a Central Board of Works, the members of which should be elected by the several municipal Councils, including the City. Although this suggestion was not carried out, it contributed to prepare the way for the Act of 1855.

The Metropolis Management Act, 1855, brought into existence the administrative Vestries and District Boards by which, in their several areas of jurisdiction, the local government of London, outside the City, has been carried on up to the present time. Their duties were to construct and maintain local sewers, and to look after local drainage, to pave, light, and cleanse the thoroughfares, and to supervise matters of sanitation. They had power to alter and extend streets, and to take lands compulsorily for that purpose; and they were surveyors of highways within their respective areas. They could hold land for open spaces. They were empowered to adopt the Baths and Washhouses Acts and the Burial Acts. They were empowered to make bye-laws, and, with the sanction of the Metropolitan Board of Works, to borrow money on the security of the rates. In course of time they obtained powers as local or sanitary authorities under many Acts of Parliament, especially in the department of the public health—such as in relation

to the disposal of refuse, the provision of mortuaries, the suppression or abatement of nuisances, the regulation of offensive businesses, the closing of unhealthy or dangerous houses, and so forth.

The same Act created the Metropolitan Board of Works as a central authority for dealing with matters which could be administered most efficiently and economically by treating the Metropolitan area as a whole. Such matters included the main drainage of London, the supervision of buildings,\* and the making of streets. They also had control over many of the functions of the Vestries and District Boards, and had powers to make bye-laws for numerous purposes, which the local bodies had to see carried out. They likewise had extensive borrowing powers, as well as power to create a Metropolitan Stock. Many further powers were conferred on the Metropolitan Board by subsequent legislation. Under these powers they constructed new main thoroughfares and Metropolitan improvements, made subways and embankments, maintained the bridges over the Thames, opened and maintained parks and preserved commons, and established the Metropolitan Fire Brigade.

**3. After 1855.**—There can be no doubt that the system of administration instituted by the Act of 1855 was an immense improvement on the confusion which had previously prevailed. It still, however, left very much to be desired, and many efforts were made to attain further reforms, both in the City of London itself and in the rest of the Metropolis.

As regards the City Corporation, it was the subject of constant and vigorous attacks. Its internal constitution was criticised as obsolete, cumbrous, and extravagant, and many of the ancient customs and jurisdictions which it retains were condemned as inconsistent with the principles of modern municipal government. From another point of

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\* The powers with respect to buildings were specifically given by the Metropolitan Building Act, 1855.

view attempts were made to unify or systematise the local administration of the whole Metropolitan area, either by enlarging the boundaries of the Corporation so as to cover that area, or by a grouping of borough authorities with uniform powers, including the City in the group. Again, dissatisfaction soon began to be expressed with the method of local government by Vestries and District Boards. The administrative Vestries were elected, it is true, by the rate-payers; but the latter showed extremely little interest in their local affairs, and the public work was often neglected, or done in a perfunctory or slipshod fashion, and there were not wanting frequent suggestions, and even direct charges, of corruption. As regards the District Boards and the Metropolitan Board of Works, there was the further complaint that they were not directly responsible to the ratepayers whose interests they had to serve, and whose money they spent, being appointed, the former by the non-administrative Vestries of their constituent parishes, the latter by the several administrative Vestries and District Boards.

The Commissioners of 1853 made various recommendations for the reform of the Corporation of the City. They suggested that the Lord Mayor should be elected by the Common Council; that the aldermen should be elected by the burgesses of the wards for six years, and be re-eligible; that the number of wards in the City should be greatly reduced, and also the number of the councillors. They recommended an amended system of audit, and the abolition of various minor City Courts, and the election of the Sheriffs by the Common Council instead of by the Livery. They made a number of other suggestions, some of which have been carried out, but the constitutional changes recommended have not been effected. Bills for the purpose were introduced in 1856 and 1858 by Sir George Grey, and in 1859 and 1860 by Sir George Cornwall Lewis, but they were opposed by the City, and they all fell through in one way or other.



The wider object of systematising and rendering the local government of London more representative was aimed at by the Bill introduced in 1867 by Mr. John Stuart Mill. Its scheme was to establish eleven boroughs, including the City, on the basis of the Municipal Corporations Act, with the Metropolitan Board of Works as a central authority. This Bill and another were re-introduced in 1868, and again, with variations, in 1869 and 1870; but none of them passed, though in the latter year they reached a second reading. In 1875 Lord Elcho introduced a Bill to extend the Corporation over London. The new municipality was to have the functions of the Common Council, the Metropolitan Board of Works and the Vestries, and for the purpose of representation London was divided into ten boroughs. The Bill was withdrawn before the second reading. In 1880 Mr. Firth introduced a Bill for the establishment of one central municipality controlling all London. It was to be triennially elected. The Metropolis was to be divided into forty municipal districts, and the Council was to consist of the Lord Mayor, forty aldermen, and two hundred councillors. The functions of the Corporation, of the Metropolitan Board, and of the Vestries and District Boards, were to pass to this central authority, and the administrative detail was to be performed by local bodies under its direct control. This Bill shared the fate of the others. The last of these abortive attempts at reform, and one of the boldest and most thorough-going, was the Bill of 1884. This Bill extended the Corporation of the City so as to embrace the whole Metropolitan area. For local administration under the control of the new Council, the existing divisions were to be retained for the time being, but powers were given to the Council to prepare a scheme for the re-arrangement of the districts. The Council was to consist of 240 councillors, besides the Lord Mayor. The election was to be triennial. There were to be no aldermen. The powers given to the new Council were very extensive.



**4. The Local Government Act, 1888.**—At last, by the Local Government (England and Wales) Act, 1888, a great change was introduced into the administrative machinery of the Metropolis, although the constitution of the Vestries and District Boards was not yet interfered with. In order to make the scheme of the Act applicable, the Metropolis was made an administrative county, governed, like the other counties, by a County Council, consisting of a chairman, aldermen, and councillors. Various clauses were expressly inserted with respect to London. The electoral divisions are not the areas of the Vestries and District Boards, but are those of the fifty-eight Parliamentary divisions of the Metropolis, each division returning two councillors, except the City, which returns four, making in all 118. The number of aldermen is not to exceed one-sixth of the number of councillors, and is therefore nineteen. The Act abolished the Metropolitan Board of Works, and transferred all its powers to the popularly-elected Council. A great number of other powers were conferred on the County Council by the Act, and subsequent legislation has extensively added to these. Among the powers of the County Council, in addition to those formerly exercised by the Metropolitan Board in relation to main drainage, the carrying out of public improvements, fire brigade, open spaces, etc., are the following:—

- (1) Housing of the working classes, including the clearing of areas and re-building thereon, and the building and maintenance of lodging-houses.
- (2) The erection and maintenance of pauper lunatic asylums, and of reformatories, and industrial schools.
- (3) The testing of weights and measures.
- (4) The licensing of music halls and of some theatres.
- (5) The licensing of slaughter-houses, cowsheds, etc.; of places for the sale of petroleum and of locomotives.

- (6) Technical education.
- (7) The appointment of coroners.
- (8) The protection of wild birds.
- (9) The protection of infant life.
- (10) The appointment of gas inspectors and the testing and stamping of gas meters.
- (11) The appointment of district surveyors.
- (12) The powers of a local authority under the Electric Lighting Acts, including purchase.
- (13) Various powers in relation to public health, including appointment of medical officers, definition and control of offensive businesses, registration and inspection of dairies, regulation of factories, workshops, and bakehouses, appointment of inspectors under the Shop Hours Act, calling on water companies for a constant supply, taking proceedings in relation to nuisances, rivers' pollution, unsound food, etc.
- (14) Making of bye-laws :—
  - For good government.
  - For local sewers and for drains.
  - For tramway traffic.
  - For streets and buildings.
  - As to nuisances, etc.
  - For parks and open spaces.
  - For overhead wires.
  - For lodging-houses, etc., etc.



**5. The Local Government Act, 1894.**—The next measure affecting the constitution of Metropolitan local authorities was the Local Government Act, 1894. This is a general Act for the establishment throughout the country of parish meetings or parish Councils in rural parishes, and of Rural and Urban District Councils. Many of its provisions were applied to the Metropolis. It affected not only the Vestries and District Boards, but also the Boards of Guardians. As

regards the latter, the Act abolished ex-officio and nominated Guardians, and provided that any person, male or female, married or not, may be a Guardian who is a parochial elector, and is qualified to be a vestryman. The electorate, instead of being the ratepayers and property owners, was made to consist of the parochial electors. With regard to the vestries, there were to be no more ex-officio chairmen, and any parochial elector or person who has resided for twelve months in the parish (irrespective of sex or marriage), was made eligible to act as a vestryman. And the persons who were to elect the vestrymen were the parochial electors.

**6. The Royal Commission of 1893.**—Meantime the agitation in favour of a reform of the Corporation of the City, both internally and in its relations to the rest of the Metropolis, had by no means ceased. It had, on the contrary, received fresh aliment from the work of the new County Council, and this time took the direction of proposals for absorbing the City in the County of London for all purposes, there being some departments in which, under the Local Government Act, the administration of the City was already controlled by the County Council. In 1893 a Royal Commission was appointed "To consider the proper conditions under which the amalgamation of the City and the County of London can be effected, and to make specific and practical proposals for that purpose." The Commission was presided over by the Right Hon. Leonard Courtney, and the other members were Sir Thomas Farrer, afterwards Lord Farrer, Mr. R. D. Holt, Mayor of Liverpool, Mr. Crawford, the solicitor to the Corporation, and Mr. E. O. Smith, Town Clerk of Birmingham. There were twenty-nine public sittings, lasting from June, 1893, to June, 1894, and the Commissioners reported on the 7th August, 1894.

It will be observed that the terms of the reference do not expressly call on the Commissioners to inquire into the



advisability or inadvisability, as a general proposition, of an "amalgamation"; and the majority of them were of opinion that that question was not within the scope of their functions. The City authorities, however, entertained a different view, and desired to have liberty to direct their evidence to show that any such amalgamation would be undesirable. As the Commissioners reserved to themselves the right of rejecting any evidence, which, from their point of view, would be inadmissible, the Corporation at length declined to offer any further evidence, and Mr. Crawford withdrew from the Commission.

A large amount of testimony, both oral and documentary, was laid before the Commissioners, who ultimately issued their report as stated.

After referring to the work of previous Commissions and Parliamentary Committees, they comment thus on the difference of opinion just alluded to:—"The task set before the Commission is the amalgamation of these areas and jurisdictions.

"That such an amalgamation is desirable, if it is practicable, we understand to be assumed in the terms of the reference to us, 'to consider the proper conditions under which the amalgamation of the City and County of London can be effected, and to make specific and practical proposals for that purpose.' This assumption did not command the assent of our late colleague, Mr. H. Home-wood Crawford, the City solicitor, and he and those who represented the City before us as witnesses, protested against their appearance on or before the Commission being regarded as an admission that the amalgamation was desirable. Some correspondence and delay in the production of evidence on behalf of the City followed, and ultimately the witnesses who had attended on behalf of the City withdrew, and Mr. Crawford himself retired from the Commission. After referring to the evidence and proceedings they had taken, the Commissioners give expression to the following general conclusion:—



“ A consideration of the evidence we have received confirms the opinion suggested by the course of previous inquiries and of legislation, or, in other words, by the historic development of the Metropolis, that the government of London must be entrusted to one body, exercising certain functions throughout all the areas covered by the name, and to a number of local bodies exercising certain other functions within the local areas which collectively make up London, the central body and the local bodies deriving their authority as representative bodies by direct election, and the functions assigned to each being determined so as to secure complete independence and responsibility to every member of the system.”

A number of paragraphs are devoted to justifying this general proposition, and then the report proceeds to deal with the following questions :

(1) What should be the constitution and functions of the central body?

(2) How should the powers, duties, and property of the existing Corporation be dealt with?

(3) What should be the functions and constitution of the local authority of the City (and other local authorities in London)?

(4) In what relation should it (and they) stand to the central body?

(1) Constitution and functions of the general body.—

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The Commissioners recommend :—

Direct election of councillors ; triennial election of the whole body ; one alderman to every six councillors, serving for six years ; the representation of the City to be double what it is under the Local Government Act, 1888 ; one electorate for both the central and local bodies, namely, the register of parochial electors under the Local Government Act, 1894 ; the whole to be called the “ City of London,” and to be a county in itself ; and its governing

body to be styled "The Mayor and Commonalty and Citizens of London." The Lord Mayor to be the Chairman of the Council, and exercise all the rights, dignities, and privileges of the present Lord Mayor, whether by charter, custom, or law.

As to functions, the general principle adopted is that the new Corporation should deal with matters common to the whole of London, while everything should be left to the local authorities that can be administered by them with equal efficiency. The powers now exercised by the London County Council over the whole of London, and also those which it exercises elsewhere than in the City, should, before being transferred to the new central body, be re-considered in detail, with the view of seeing how far any of these functions can be exercised by the local authorities without loss of efficiency.

(2) Powers, duties, and property of the old Corporation.

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The functions carried on by the Commissioners of Sewers in the City would be performed by a local authority, and to such authority would also be entrusted the management of various charitable, educational, and other institutions and trusts of local application.

Arrangements are suggested for the transfer of property and debts, including the various City estates, and also the Guildhall, Mansion House, and certain schools.

The Sheriffs of London should be appointed by the new council; the old City should cease to be a county of itself, and the jurisdiction of the County of London Quarter Sessions and justices should extend into the area of the old City. Obsolete courts, such as the Court of Hustings and the Borough Court of Southwark should be abolished, and the City of London Court should be transferred to the new Corporation. The Mayor's Court should be extended over the metropolitan area, and come under the new council. Freedom, by purchase, etc., should be abolished,

and the Liveries be regulated by a Government department.

As to the police, the Commissioners recommend the fusion of the City force with the metropolitan, but make no suggestion as to the control of the whole.

There are a number of considerations and suggestions on the subject of finance.

(3) Constitution and functions of the local authority in the City and other local authorities in London.

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Broadly speaking, the local authority in the area of the old City would have the following functions:—

- (a) Sanitary administration generally, including control of new buildings, unhealthy dwellings, and local sewers.
- (b) Maintenance of streets and traffic regulation.
- (c) Assessment and registration.
- (d) Maintenance of mortuaries and small open spaces and some other detail powers.

On the other hand, certain powers exercised in the City by the Commissioners of Sewers and elsewhere in London by the County Council would, subject to modifications of detail, pass to the new Corporation. Among these are powers as regards dangerous structures, unhealthy areas, working-class lodging-houses, the licensing of offensive trades, etc., and weights and measures regulations.

The administration of the adoptive Acts should be conferred on the local authority, and also the management of many charities and trusts.

The local authority in the old City should consist of a mayor and council, the latter numbering seventy-two members. The councillors should be elected in thirds every year, each councillor having a three years' term of office. The representatives of each district on the central body should be ex-officio members of the local authority of that district.



(4) Relations of the local authority of the old City and of the other local authorities to the new Corporation.

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The central council should have power to frame bye-laws under which the local bodies should work, and should have power to act in default of the latter, especially in sanitary matters. Efforts should be made to secure uniformity of rating and of assessment by the representation of the central authority on the local assessment committees.

**7. From 1894 to 1899.**—No legislation followed the Report just summarised. The general election of 1895 entirely altered the balance of parties in the House of Commons, and a change of Government ensued. By a very short Act, in 1897, the City Commissioners of Sewers ceased to exist, and their functions were bodily transferred to the Common Council.

Meantime, however, agitation had been set up in different parts of the metropolis in favour of the creation of local municipalities, with enlarged powers of self-government. Already in 1894, the Vestry of St. Mary Abbott's, Kensington, had passed a resolution, affirming the desirability "with a view to the preservation of the true principles of local self-government, that in any scheme for the better government of the Metropolis, the powers, duties, and responsibilities of local authorities should be enlarged rather than curtailed, and that this can best be attained by the establishment and incorporation of a number of municipalities, vested with full municipal life and privilege." A copy of this resolution was forwarded to the Royal Commission then sitting. Later on, the clerk of the vestry gave evidence in support of the views expressed in the resolution. The principle of administration from one centre was condemned, and the establishment of separate municipalities advocated. In the ensuing years the movement in this direction was kept up, and several petitions and one or two



Bills were put forward, with the object of the formation of boroughs in distinct areas. Although these efforts were not directly successful, there can be little doubt that to them, as well as to the investigations of the Royal Commissioners, was in a large measure due the bringing in by the Government, and the passing by Parliament, of the London Government Act of 1899.

## SECTION 2.—CONSTITUTION OF METROPOLITAN BOROUGHES AND OF THEIR COUNCILS.

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**1. Boroughs established.**—The whole of the area known as the Administrative County of London, with the exception of the City, is divided into twenty-eight boroughs, each administered by an incorporated council. The extent of area dealt with is 74,772 acres, with a population, according to the census of 1896, of 4,401,935, and a rateable value in 1898 of £32,018,869.

Each borough will be separate from the others, and will be governed, within the limits of the powers given by the Act, by its own separate council.

The new boroughs will take the places of forty-two administrative bodies, namely, twenty-nine vestries, twelve district boards, and the Local Board of Health of Woolwich. Their establishment, however, will absorb and put an end to a large number of other local bodies, whose functions are either superseded or transferred by the Act to the councils of the boroughs. Among these bodies are :—

- 44 non-administrative vestries,
- 12 burial boards,
- 18 public library commissioners,
- 10 baths and washhouses commissioners,
- 2 boards of trustees of markets.
- 56 bodies of overseers.

To these may be added something like a score of bodies of “ Trustees of the poor,” acting for the most part under

local Acts whose powers and duties may be taken over by the borough councils or otherwise dealt with.

The aggregate number of members of the councils will probably not exceed one-third of the gross membership of the bodies displaced by them.

The exact adjustment of the boundaries of the new boroughs and of their constituent parishes is left, along with many other preparatory duties, to a committee of the Privy Council, who are assisted by Commissioners appointed by them.

**2. Constitution of the Borough Councils.**—The new boroughs are not municipal boroughs, in the sense in which that expression is applied to the principal towns. They *resemble* such boroughs in the following principal features :—

(a) Each has a defined urban area of jurisdiction.

(b) Each is administered by a council of popularly-elected councillors, with a certain proportion of aldermen, elected by the members, and presided over by a mayor, also elected by the members.

(c) The terms of office of the mayor, aldermen, and councillors are respectively the same in both.

(d) The qualifications and disqualifications of the electors, and of the mayor, aldermen, and councillors are identical or analogous.

(e) Many of the administrative powers and duties are alike.

(f) The division into wards, the mode of distribution of the councillors among the wards, and the regulations as to elections are the same or are analogous.

(g) Each may adopt and administer the Adoptive Acts.

(h) Each may hold real and personal property, may contract loans, and may levy rates.

(i) Each may promote Bills in Parliament.

The metropolitan boroughs *differ from* municipal boroughs in the following, among other particulars :—

(a) Their relations and points of contact with the London County Council are much closer and more numerous than are those of municipal boroughs with their respective County Councils.

(b) There is no burgess roll, and there are no freemen, the electorate being the parochial electors.

(c) The number of aldermen is one-sixth, and not one-third of the number of councillors.

(d) The qualifications for electors, and for the offices of mayor, alderman, and councillor, in respect of residence and property, are different.

(e) The mayor is *ex-officio* a *county* justice during his term of office only. He is not disqualified by absence. He will not, as mayor, have special precedence, nor has he power to appoint a deputy-mayor.

(f) The power to make bye-laws is in general confined to matters expressly mentioned in the applied Acts; but by the present Act power is given to make general bye-laws "for good rule and government."

(g) The provisions as to the keeping of accounts and the audit are different, the latter being stricter than in a municipal borough. There are no elective auditors.

(h) The council has no power to create corporate stock; and the power to borrow money is in many cases subject to the sanction of the London County Council.

(i) They will have no ecclesiastical patronage or property.

(j) The rates are generalised and the regulations for their assessment, demand and collection specialised.

(k) They cannot become "county boroughs."

(l) There are no borough justices; and the administration of justice is altogether outside of the jurisdiction of a borough council. There is no separate borough jury list, as such.

(m) There is no police jurisdiction.

(n) There is no licensing jurisdiction for public-houses, music halls, etc.



(o) A school board cannot be established.

It may be added that the geographical situations of the metropolitan boroughs relatively to each other renders their expansion in area difficult, if not impracticable. Further, their administration has to be carried on side by side with, or conjointly with, the jurisdiction, not only of the central authorities (namely, the County Council, the county magistrates, the Asylums Board, the School Board, and the Home Office as the police authority), but also of the several Boards of Guardians whose districts will not necessarily be co-terminous with those of the borough councils.

It must also be observed that the Act makes no alteration whatever in Parliamentary divisions, the areas of which will remain as before.

**3. Women.**—No woman can be a mayor, alderman, or councillor. In this respect the law has been expressly altered, as women could serve on the vestries which the Act supersedes.

**4. The Mayor.**—The mayor is the president of the council. His office is annual, but he is re-eligible. He is a justice of the peace for the County of London during his term of office. Any fit person is eligible to act as mayor who is eligible as an alderman or councillor. The council may pay the mayor such salary as they think reasonable. He may call a meeting of the council at any time.

**5. The Aldermen.**—The Aldermen will bear to the councillors in number the proportion of one to six. They will be elected by the councillors. Their term of office is six years, half of them going out of office every three years. An outgoing alderman is re-eligible. Any fit person who is a councillor or is eligible as a councillor may be elected an alderman. Moreover, a peer owning property in the borough, though he be not qualified to be a councillor, is qualified to be an alderman. Absence from the meetings of the council for more than six months consecutively,



except in case of illness or for some reason approved by the council, will vacate an alderman's office. An alderman cannot, as such, vote for an alderman. In general aldermen have no precedence over councillors, but in the absence of the mayor from a council meeting, an alderman has a prior right to preside.

**6. The Councillors.**—The number of councillors for any borough cannot exceed sixty. The exact number in each borough will be fixed by Order in Council. Each borough will be divided into wards, the number and boundaries of which, as well as the distribution of the councillors among the several wards, will be fixed by the same Order in Council. The number of councillors for each ward (and consequently the whole number for the borough) must be divisible by three; and the numbers for the different wards will depend upon their relative rateable values and population. From time to time the number or boundaries of wards, or the apportionment of councillors among them may be altered by an order of the Local Government Board; but the gross number of councillors, once fixed, cannot be changed except by Act of Parliament.

The qualification for election as a councillor is very wide. Any fit\* person may be a councillor who is a parochial elector† in the borough; or even though he be not an elector if he has resided in the borough for the twelve months preceding the election.

The term of office of a borough councillor is three years. But every year one-third of the councillors for each ward (and consequently one-third of the whole number) will retire, and their places will be filled by election, the retiring members being re-eligible. There is, however, a means

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\* The expression "a fit person," applied to the mayor, aldermen and councillors, means any *male* not subject to some disqualification defined by statute.

† There are several different qualifications entitling a person, of full age and not subject to any legal incapacity, to be registered as a parochial elector; and the joint effect of these is to make the borough franchise approximate to adult suffrage, subject, in general, to residence, and the payment, if a lodger, of a certain rent.

whereby any borough council may obtain an order of the Local Government Board for the triennial retirement of the whole of the councillors together, namely, by passing a special resolution in favour of such arrangement, by a majority of the whole council, such majority also being two-thirds of those voting at the meeting.

A councillor, like an alderman, vacates his seat if he is continuously absent for over six months, except for illness or for some reason approved by the council.

**7. Disqualifications.**—There are certain disqualifications which apply equally to the mayor, aldermen, and councillors, in addition to that of sex. These are, infancy, alienage, conviction of crime within five years with a sentence to imprisonment with hard labour, the receipt within twelve months of parochial relief, and insolvency. Further a conviction, or the report of an election court, against a candidate for corrupt practices operates as a disqualification. And no person can serve on a council with which he has or is interested in a contract or bargain. And corruption in office vacates a member's seat.

**8. The Electors and their disqualifications.**—The electors of a metropolitan borough are, as has been seen, the parochial electors ; but a person, though otherwise qualified, cannot vote at any election unless his name is on the register. The register must be completed and printed every year not later than the 19th October. It is made up according to wards, and each elector must vote in the ward in which he is registered ; and though he may be registered in more than one ward, he must not vote in more than one ward at the same election.\* The right to vote is irrespective of sex.

An elector is disfranchised on conviction of treason or felony, and within certain limits on conviction of corrupt or illegal practices. No person who has within the preceding year received parochial relief (except medical relief)

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\* The same person, however, if registered in different boroughs, may vote in each of such boroughs.

can vote, nor can anyone employed for payment in behalf of a candidate.

**9. Dates of Elections.**—The election day for councillors will be the first of November, and that for the mayor and aldermen the ninth of November.

**10. Election of Councillors.**—Each candidate must be nominated by two electors as proposer and seconder. If there is a poll, it will be taken by ballot, and each elector may vote for as many candidates as there are vacancies, and no more. He need not vote for so many unless he chooses, but he cannot give more than one vote to any one candidate. The hours of poll will be from 8 a.m. to 8 p.m. The detailed arrangements for the conduct of elections will be made by rules framed by the Local Government Board. These will include regulations for the appointment of returning officers, nominations, and all polling arrangements.

The provisions of the law as to corrupt and illegal practices will, of course, apply to borough council elections. Corrupt practices fall under the heads of treating, undue influence, bribery, and personation, and are punishable (besides disfranchisement and disqualification) with imprisonment or fine according to circumstances. Illegal practices are very numerous, and include the use of more paid clerks, polling agents or messengers, or committee-rooms than are allowed by the legal scale, the providing of money for any illegal payment, the conveyance of electors to or from the poll in hired carriages, payment for bands, banners, or other marks of distinction (but this does not include canvassing or polling cards), payment of canvassers, holding meetings in or using as committee-rooms, licensed premises or refreshment rooms, etc. Illegal practices are punishable, not only by disfranchisement (and disqualification if committed by a candidate), but also by fine. The High Court, however, has power to give relief from the consequences of illegal practices arising from accident or inadvertence.





### SECTION 3.—PROCEEDINGS OF BOROUGH COUNCILS.

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**1. Generally.**—In general, the proceedings of borough councils will be regulated by the law heretofore governing those of the displaced vestries, but several changes are introduced. The result is summarily stated in the following paragraphs.

**2. Meetings of Council.**—A council may hold its meetings on any day except Sunday. It has already been pointed out that the mayor may at any time call a meeting, and that, when present, he must preside. The rule for convening a meeting is for the town clerk to send notice thereof by post or otherwise to each member three days beforehand, and to affix the notice thereof on the door of the building where the meeting is to be held. Longer notices, however, are required in certain cases, *e.g.*, when it is proposed to spend money in promoting a Bill in Parliament, or to adopt the Public Libraries Act, or to transfer to the County Council powers as to drainage. The quorum for all ordinary business is one-third of the members. In some cases, however, a larger quorum is necessary. Thus, before a resolution to spend money in promoting a Bill can be validly passed, it must be supported by an absolute majority of the whole council. And a resolution to transfer drainage powers requires a quorum of two-thirds. And a resolution to apply to the Local Government Board for an order for triennial elections requires at least a majority of the whole council, being two-thirds of those present and voting. All questions are decided by voting, *i.e.*, either by show of hands, division, or poll.

**3. Minutes, Minute Books, and Account Books.**

—Minutes of all proceedings must be entered in minute books; and accounts of all moneys received and paid must



be kept, as well as copies of all contracts; and all these must be kept open to inspection.

**4. Annual Reports.**—Every borough council is bound to send annually to the London County Council a printed report of its proceedings during the previous year, and to keep copies of such report for inspection and sale. It must also annually make a return to the Local Government Board of its accounts for the year.

**5. Committees.**—A borough council may appoint committees, and may, if it chooses, delegate executive powers to such committees, except the power of making a rate or borrowing money. If a public libraries committee is appointed, it may consist partly of members not belonging to the council. A finance committee *must* be appointed. The smallest quorum of a committee is three. All committees must report their proceedings to the council. Where the whole of a poor-law union is within a metropolitan borough, the council will appoint the assessment committee. Joint committees may be appointed by different borough councils for common purposes.

**6. Bye-laws.**—Every borough council may make bye-laws for regulating the business and proceedings at their meetings, and also for their committees and officers.

#### SECTION 4.—POWERS OF BOROUGH COUNCILS.

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**1. Generally.**—Generally speaking, the powers of the councils of the new boroughs will be the same as those of the bodies whose functions they will take over. The principal of these powers, as modified under the Act, are given in the following paragraphs.

**2. Local Acts.**—Where any vestry or district board exercised powers under a local Act, these powers will be

transferred to the borough council governing the same area. But the Commissioners have power, by scheme, to modify or repeal any local Act except the London Building Act of 1894.

**3. Church Affairs.**—Any powers heretofore exercised by vestries in Church matters, or with respect to Church property, will not be transferred to the borough councils, and the connexion of churchwardens, as such, with the administration of the affairs of the borough, will cease.

**4. General Government.**—The general powers of administration of borough councils will be derived from the Metropolis Management Acts. They include powers of construction, regulation, management, and maintenance of local drains and sewers ; powers in respect to paving, lighting, cleansing, and watering streets ; certain powers in relation to sanitation ; the power to make bye-laws ; the power to make and levy rates, and the power to borrow money on capital account.

**5. Adoptive Acts.**—The power to adopt and execute these Acts is vested in the borough councils. The Acts are the Baths and Wash-houses Acts, the Public Libraries Acts, and the Burial Acts.

**6. Sanitation.**—A very great number of powers and duties are given to and imposed upon borough councils, in relation to matters of public health and safety, principally by the Public Health (London) Act of 1891, and by the Housing of the Working Classes Act of 1890. These functions, under the former Act, cover everything necessary to abate or abolish unhealthy or offensive smells and exhalations from ponds, ditches, etc. ; to provide public cisterns, wells, etc. ; to abate and prevent nuisances ; to supervise, from a sanitary point of view, the carrying-on of unhealthy or offensive businesses ; to protect the public from the dangerous consequences of allowing the escape of refuse, filth, or noxious gases ; to ensure proper sanitary

conveniences in houses, and particularly in factories, workshops, bakehouses, dairies, etc. Under the latter Act, borough councils are empowered to take proceedings for closing and demolishing houses which are dangerous or injurious to health, and for demolishing obstructive buildings, and to submit schemes for the improvement of unhealthy areas; and also to establish working-class lodging-houses.

Borough councils have also the power to keep and manage open spaces; to provide for the prevention of floods from the Thames, to regulate the sanitary conditions of canal boats, and to supervise the soundness and quality of food and drugs.

**7. Miscellaneous.**—The borough councils will be the proper authorities for carrying out provisions of various Acts of Parliament, embracing tramways, regulations as to gas and water supplies, electric lighting, etc.

## SECTION 5.—OFFICERS OF BOROUGH COUNCILS.

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**1. General.**—Every borough council has power to appoint and remove officers and servants, and to make regulations for their duties and remuneration. There are, however, certain officers referred to expressly in the Act or in other Acts incorporated by it, in such a manner as to render their appointment to all intents and purposes obligatory. These are the town clerk, the borough treasurer, at least one medical officer, and a proper number of sanitary inspectors and assistant overseers. To these may be added, as officers practically indispensable, rate collectors, a surveyor, and an analyst. Where the adoptive Acts are in force, proper officers will be required for their execution. Of course the number of members on the staff of the several departments, as well as the number of work-



men and other servants, will depend on the area, population, and other circumstances of the borough.

All officers must give security for their fidelity and honesty. And a borough council has the power to grant to its officers, under certain conditions, superannuation allowances, not exceeding a certain scale. No officer may take a bribe or gratuity, nor be interested in any contract with the council.

It is the duty of a borough council to provide proper offices, and they have full power to acquire or build whatever accommodation they may require, including a town hall, which may be let or used for meetings or entertainments.

**2. The Town Clerk.**—The Town Clerk is the principal officer of the council. He is the official registration officer, and the overseer for preparing and issuing the lists of voters. He also issues all notices of meetings. He signs the valuation lists. He countersigns all orders for payment and all cheques. He makes the annual return to the Local Government Board of the receipts and expenditure of his council, and has authority to appear on its behalf in courts of law in which proceedings are taken under the Public Health (London) Act, and in other cases. And where the assessment committee is appointed by the council, he is clerk to that committee.

The town clerk, as a matter of course, has the general supervision of the office business of the council; he usually attends the meetings of the council, and frequently those of committees, and is expected to advise on questions of procedure or routine, and often on questions of law, especially if he is a lawyer.

**3. The Borough Treasurer** has to make all payments and to receive all sums paid on behalf of the council. He has to make up his accounts half-yearly, and also yearly; and they are subject to annual audit by the district auditors.



**4. Medical Officer of Health.**—This Officer must be a properly qualified practitioner, and have certain other qualifications. His salary is subject to the approval of the Local Government Board, and one-half of it is payable by the London County Council. He cannot be removed without the consent of the Local Government Board. He must make an annual report.

**5. Sanitary Inspectors** must hold a certificate of the kind approved by the Local Government Board, or have practised as sanitary inspectors for three years. Half the salary is paid by the London County Council.

**6. Assistant Overseers** will assist the borough council in the duties of overseer, which are imposed on it by the Act, including the burial of drowned persons, the prosecution of keepers of disorderly houses, the giving of temporary relief in urgent cases, the making-out of the valuation lists for the assessment of properties for rating purposes, and the preparation and collection of the rate.

**7. The Surveyor** is, of course, a very important officer, and in addition to his general duties in reference to paving, lighting, watering, buildings and improvements, he will assist the borough council in the execution of their functions as surveyors of highways.

**8.** It is unnecessary to specify the duties of the **rate collectors**, of the **analysts** of food, drugs and water, or of the **assistant officers** in the several departments. Nor is more than a mention required of the officials acting under the adoptive Acts, as **librarians**, **superintendents** of baths and wash-houses, and of burial grounds, etc.; or of officers appointed for the purposes of the **Housing Act**.

**9. Existing Officers.**—The existing officers and servants of all the authorities whose powers and duties are

transferred to the borough councils, will become the officers and servants of the latter. If a borough council abolishes any office, the holder thereof will be entitled to compensation, as will also the holder of any office who suffers loss in fees or salary. And any officer whose duties are altered or unreasonably added to, may resign his office, and will be entitled to compensation.

## SECTION 6.—CORPORATE PROPERTY OF BOROUGH COUNCILS.

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**1. Generally.**—There will be transferred to the several borough councils all property vested in the vestries and district boards, all property vested in commissioners or boards under the adoptive Acts, and all property vested in overseers or churchwardens (except Church property). And all lands and goods of whatsoever kind which a borough council may acquire by purchase or otherwise will vest as corporate property in the borough council.\*

**2. Adjustments.**—All proper adjustments for the transfer and appropriation of property to and among the boroughs are to be made by the Commissioners by schemes. And if any dispute arises as to whether any property is or is not transferred to or vested in any council, the question may be summarily decided by the High Court of Justice.

## SECTION 7.—FINANCE AND RATING.

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**1.** Every borough council must appoint a **Finance Committee**, for regulating and controlling its finance. No order for the payment of money can be made except

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\* There are a few roads in the County of London which have heretofore had the status of "main roads," and have vested in the London County Council; these will cease to be main roads and will vest in the councils of the metropolitan boroughs in which they are situated.

on the recommendation of that committee, and, in general, no liability may be incurred over fifty pounds except on an estimate submitted to the council by that committee. This, of course, does not apply to the liability to meet the precepts of the London County Council, the London School Board, or other central authority.

**2. Books of Account** must be kept, showing all sums received and paid, and all liabilities incurred, and copies of all contracts entered into.

**3. Contracts under Seal.**—Every contract involving a liability of over ten pounds must be written or printed, and must be under seal.

**4. General Rate to bear Expenses.**—All the expenses of a borough council will be paid out of the general rate. Arrangements for this will be provided by scheme.

**5. Orders for Money to defray Expenses.**—When sums are wanted for meeting the expenses of a borough council, they will be raised as follows:—The council will, by order under seal, direct the assistant overseers to raise and pay over to the treasurer or bankers of the council the sum or sums mentioned in the order. The assistant overseers will thereupon levy the necessary amounts by means of the demand notes, and through the rate collectors. But where any expenditure is to be incurred wholly or principally for the benefit of a part or parts only of the borough, the order may direct that the parts not benefited, or benefited in a minor degree, shall be exempted, in whole or in part, from contributing to that expenditure.

**6. Accounts and Audit.**—The annual accounts of all borough councils and of their committees and officers must be made up to the end of the financial year, namely, to the 31st March. The form in which they are to be made



up will be prescribed by the Local Government Board. The present Act abolishes the system of audit previously in use, and substitutes for the elected auditors of the vestries district auditors appointed by the Local Government Board. Every borough council must submit to the district auditor, along with its accounts, a financial statement. The auditor is bound to disallow any illegal payment, but the Local Government Board may, on appeal, remove the disallowance and remit a surcharge if they think such indulgence fair and equitable. An annual return of receipts and expenditure to the 31st March must also be made by every council to the Local Government Board, in the form prescribed by that Board; and the town clerk must publish an abstract of the accounts when audited.

**7. Borrowing Powers.**—Borough councils will have power to borrow money on mortgage on the security of the rates for various purposes named in the Acts applied to them; but in all cases subject to given conditions, and in general subject to the consent either of the London County Council or of the Local Government Board. The chief objects for which money may be borrowed on capital account are:—For the general purposes of the Metropolis Management Acts, for public improvements, for the purposes of the Housing and Adoptive Acts, for open spaces, and for various purposes stated in the Public Health (London) Act. There are limitations to the period over which the repayment of a loan may be spread, based, as a rule, on the greater or less permanency of the work or other object of the expenditure. And a sinking fund must be formed so as to replace the capital at the end of the period. A borough council cannot create corporate stock, or raise money on debentures.

**8. Rating.**—The Act consolidates the system of Rating. The poor rate and the general rate will be assessed and levied together, and there will be no sewers or lighting rate,

the expenditure under these heads being levied under the general rate. In fact there will be only one local rate in a metropolitan borough, namely, the general rate. The demand note, however, must distinguish the several purposes for which the rate is made. If a borough includes more than one parish, the amount of the general rate will, as a rule, be apportioned between the parishes in the ratio of their rateable values ; and where a charge under any adoptive Act or local Act falls on part only of a borough, it will form a special item of the general rate applicable to that part only.

To the local rate will be added the rates made by the County Council and the School Board, and these will be levied on the same demand note as the general rate. The same remark applies to the rates required to meet the expenses of the several boards of guardians, and to the police rate.

**9. Assessment Committee.**—The duties of the assessment committee of a parish or union are to revise, check, and finally approve the valuation list made by the overseers, who will, under the Act, be the borough councils. Hitherto the assessment committee has been appointed in some cases by the vestries, in others by the boards of guardians. Under the Act where a metropolitan borough comprises the whole of a poor law union (that is, a parish or union of parishes for which there is a separate board of guardians) the borough council will appoint the assessment committee. In the metropolis there is an entire re-valuation every five years, in addition to which there are annual provisional and supplemental valuation lists, to meet cases where rateable property has been increased or reduced in value, or new rateable property has arisen during the year. All these lists will be prepared and deposited by the borough councils acting as overseers, and will be revised by the assessment committees, who must hear objections, and, after making such alterations as they think

proper, must “approve” the lists. These are then conclusive as to value for rating purposes, subject to the right of appeal to Quarter Sessions.

**10. Expenses of Proceedings in Parliament.**—Hitherto vestries and district boards have had certain powers of opposing Bills in Parliament which threatened their property or rights. These powers will continue to be enjoyed by borough councils. But, by virtue of the Act, and with the proper formalities and the consent of the Local Government Board or Home Secretary, a borough council will be able to oppose any local or personal Bill, and will also be able to promote any such Bill, and to defray the expenses out of rate; with the exception that they cannot promote a Bill to establish gas or waterworks in competition with a company already armed with Parliamentary powers for gas or water supply, nor a Bill for any object attainable by means of a provisional order.

**11. Exemptions from Rating.**—Certain forms of property are exempt from rating, and others are entitled to partial exemption; and the Act preserves all such rights. For example, churches, chapels, prisons, royal palaces and parks and Crown property in general, national museums, post offices, county courts, and free public bridges are wholly exempt from rating; while such property as arable land, market gardens, allotments, and public burial grounds are rateable only on a reduced assessment. And there are many exemptions, total or partial, expressly provided for by Acts of Parliament.



## SECTION 8.—LEGAL PROCEEDINGS, NOTICES, ETC.

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**1. Generally.**—Any borough council is entitled to prosecute or defend any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the borough, and to pay the costs and expenses of such proceedings out of the rates.

**2. How to be brought.**—As a rule, legal proceedings must be brought by, or against, any borough council in its corporate name, and ordinarily the council may appear by the town clerk. This is expressly provided as to all proceedings under the Public Health (London) Act, and as to proceedings where the council is a creditor in a bankruptcy or insolvency.

**3. Limitation of Actions.**—Any action or prosecution against a borough council or any of its members or officers in respect of anything done or neglected under any Act of Parliament, or in the execution of or failure to execute any public duty or authority, must be brought within six months of the alleged act or neglect.

**4. Immunities under the Public Health (London) Act.**—No action or proceeding can be brought personally against any member or officer of a borough council in respect of any contract made by such council, or of anything done by the council or by the member or officer *bonâ fide* in the execution of the Public Health (London) Act.

**5. Service of Writs, Notices, &c.**—All summonses, writs, and notices on a borough council will be validly served if delivered to the town clerk or left at the principal office; and in the case of notices under the Public Health (London) Act, if left at or posted to the office addressed to the council or clerk.

SECTION 9.—RELATIONS OF BOROUGH COUNCILS  
TO THE LOCAL GOVERNMENT BOARD AND TO  
THE LONDON COUNTY COUNCIL.

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**1. Introductory.**—The Local Government Board is a department of the Government established in 1871 for the general purpose of supervising, harmonising, and correcting the proceedings of local authorities throughout the country, and for securing the proper administration by such authorities of a number of Acts of Parliament bearing on the public health and welfare. Its powers are very numerous and very important. It has a controlling voice, in most cases, over the borrowing of money by local bodies, even for the exercise of statutory powers; and its consent is necessary before property, especially in land, can be alienated. Transfers of powers from one body to another, the purchase of undertakings, and the carrying-out of public improvements are largely dependent on its authorisation. It has a veto over bye-laws, and issues regulations for the carrying out of various Acts, including those relating to municipal elections, local taxation returns, the reports and statements of accounts of local authorities, etc. In all matters of dispute between local bodies *inter se*, or between such bodies and individuals, such as questions of compensation for compulsory purchase or transfer, and in dealing with applications for authority to borrow money for public works or otherwise, it has power to hold local inquiries and to decide or arbitrate upon the matters in question, or to make orders at its discretion. It stands in respect to many important departments of municipal enterprise, between the local authorities and the Legislature, receiving from the former their substantive proposals, and if these are approved in principle, clothing them with its protection in the shape of Provisional Orders, to be sanctioned by Parliament in confirmatory Acts.

**2. General powers of Local Government Board in relation to Metropolitan Borough Councils.**—

By the present Act, an appeal is given to borough councils to the Local Government Board in cases where the London County Council refuse, or attach conditions to, their sanction to a loan. The Board has power, under certain circumstances, to alter the wards of a borough, and the apportionment of the councillors among the wards. It appoints the district auditors, by whom the accounts of borough councils are to be audited, and determines appeals from any allowance or surcharge complained of. It frames rules for the conduct of elections, for acceptance of office, and resignation by members of borough councils, and for the filling of casual vacancies. It prescribes the forms for the return of accounts, etc., and also for precepts and demand notes for rates. In cases of transfer of powers and duties from or to the County Council, the Board is the final authority for settling questions of contribution in default of agreement. Its consent is necessary for the letting or alienation of land by a borough council. It has power to put into effect a resolution of a borough council for the triennial election of the whole body. Its sanction is necessary for the union of parishes in different unions; for the incurring, in most cases, of expense in promoting or opposing Parliamentary Bills, and for borrowing money for various purposes under the Public Health (London) Act, and under the Baths and Wash-houses and Public Libraries Acts. It has many detailed powers to frame regulations and orders, and to confer powers on borough councils.

**3. Local Inquiries.**—The most usual and the most important means whereby the Local Government Board brings itself into relation with local authorities for the purpose of settling differences, framing schemes, or deciding upon applications made to it, is by local inquiries. It has full authority to hold such enquiries for all purposes within its jurisdiction. The inquiries are held by inspectors



appointed by the Board, who have power to summon and examine witnesses, to call for books, papers, and documents, and to visit and examine buildings and other places. The inspectors report to the Board, and the Board gives its decision.

**4. Arbitrations.**—For the purpose of determining any matter in dispute, the Local Government Board may, at its discretion, either give its decision on the result of its own inquiries or information supplied to or possessed by it, or may hold an arbitration by means of an arbitrator appointed by it. The arbitrator has full powers of investigation, and the award in the matter is made by him.

**5. Provisional Orders.**—A provisional order is an order made, under statutory conditions as to public notices, hearing objections, etc., for the purpose of conferring powers on local authorities. For example, a borough council may apply for such an order to enable it to supply electric light. And the present Act has provisions for the transfer by provisional order of powers from the London County Council to borough councils, or conversely. A provisional order, when made, is submitted by the Local Government Board as a Bill to Parliament, and is of no force unless and until it is confirmed by Parliament.

**6. Relations of Borough Councils to the London County Council.**—The sanction of the London County Council is required (subject to appeal to the Local Government Board) to the borrowing of money by borough councils for various purposes, such as public improvements, the acquisition of open spaces, the execution of the Housing Acts in relation to the demolition of unhealthy or obstructive buildings, the provision of hospitals and mortuaries, and electric lighting. The London County Council is the metropolitan authority in relation to main drainage, and also has supervisory and regulative powers over local drains and sewers. It has various powers to make bye-laws in

reference to the laying out of new streets ; it names streets and numbers houses ; it appoints district surveyors, whose duty it is to see that all buildings are properly constructed, and makes bye-laws for their guidance, and decides on appeal from their requisitions ; it puts into operation the London Building Act, defines the line of frontage, and makes bye-laws as to walls, foundations, and sanitary accommodation. The Council has various powers in reference to the public health of the metropolis, appointing medical officers, making bye-laws for the prevention of nuisances, issuing licenses for slaughter-houses, etc., and taking proceedings where the borough council makes default. The Council has power to contribute to the cost of public improvements, and to the maintenance of thoroughfares, open spaces, or pleasure grounds, or to the expenses of a borough council incurred in the execution of the Housing Act. The County Council is the local authority under the Tramways Act, and may, as such, by provisional order, construct and maintain tramways ; but the borough council is the road authority, and has certain powers to refuse its consent to tramways. The Council has power to lend money, under certain conditions, to borough councils. The Council has many miscellaneous powers of making bye-laws and regulations, many of which it is the duty of the borough councils to carry out.

Certain minor powers under the London Building Act are by the present Act transferred from the London County Council to the borough councils, and certain other powers may be exercised by the latter concurrently with the former. Among these last is the power, under Part III. of the Housing Act to establish working-class lodging-houses. It has been already stated that certain "main roads" in the metropolis will cease to be such, and will pass to the borough councils.

The London County Council makes the county rate, and issues its precepts to the clerks of the borough councils,

and these bodies are bound to levy and pay over the proper amounts so requisitioned.

The County Council pays half the salary of any medical officers of health or sanitary inspectors appointed by the borough councils under the Public Health (London) Act. It fixes the scale of expenses of holding elections of borough councillors. It has the right to have copies of valuation Lists, annual reports and rates, and it has sundry other minor powers.



PART II.

THE LONDON GOVERNMENT ACT,  
1899.

THE SECTIONS OF THE ACT, WITH NOTES AND  
COMMENTS.



# LONDON GOVERNMENT ACT, 1899.

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*62 & 63 Vict., ch. 14.—13th July, 1899.*

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**1. Establishment of Metropolitan Boroughs in London.**—The whole of the Administrative County of London (*a*) exclusive of the City of London (*b*) shall be divided into metropolitan boroughs (in this Act referred to as boroughs), and for that purpose it shall be lawful for Her Majesty, by Order in Council, subject to and in accordance with this Act (*c*) to form each of the areas mentioned in the First Schedule to this Act (*d*) into a separate borough, subject, nevertheless, to such alteration of area (*e*) as may be required to give effect to the provisions of this Act, and subject also to such adjustment of boundaries (*f*) as may appear to Her Majesty in Council expedient for simplification or convenience of administration, and to establish and incorporate a council for each of the boroughs so formed.

(*a*) The Administrative County of London was created by the Local Government Act, 1888, sect. 40, subs. (1). It embraces and is conterminous with the “Metropolis” as defined by sect. 100 of that Act, viz.: the City of London and the parishes and places mentioned in Schedules A., B., and C., to the Metropolis Management Act, 1855, as amended by subsequent Acts.

51 and 52 Vict.,  
c. 41.

The expression “Administrative County” means the area for which a county council is elected (L.G.A., 1888, sect. 100).

18 and 19 Vict.,  
ch. 120.

The operation of the Act will not necessarily be confined to the present Administrative County of London, nor will it necessarily embrace the whole of that present county (see sect. 18 subss. (2) (3) (4), p. 113).

(*b*) The City of London forms part of the Administrative County, but for non-administrative purposes it remains a separate county (L.G.A., 1888, sect. 40, subs. (3)). It is also exempted in respect to various administrative matters from the jurisdiction of the London County Council; and is not liable to contribute to



expenses incurred by the County Council for various purposes (L.G.A., 1888, sect. 41, subs. (3)). Compare note (*d*) to sect. 15, p. 102.

Although the City is not constituted one of the Metropolitan boroughs, yet for the purposes of transfer of powers from or to the London County Council it is treated like any of those boroughs. See sect. 5, subs. (4), p. 64, and sect. 7, subs. (3), p. 82.

By sect. 16, subs. (3), p. 104, the mayor, commonalty, and citizens, and the Court of Aldermen of the City of London are to be deemed a local authority within the meaning of Part XI. of the Municipal Corporations Act, 1882, so far as relates to powers exercisable by them or their officers within the ancient borough of Southwark. See also note (*g*), p. 111.

(*c*) That is to say, subject to the list of areas contained in Schedule I., and to the powers given to the Commissioners to be appointed under sect. 15 (1), with the limitation contained in sect. 15 (2), p. 99; and subject to the various provisions contained in the Act as to the adjustment of the areas and boundaries of the several boroughs, as to detached parts of parishes and districts; as to certain particular places such as Penge; as to the constitution of the boroughs, transfer of powers, etc.

(*d*) The First Schedule gives a list of twenty-eight areas, each of which is to be a borough. Thus, with the City, the whole metropolitan area, that is to say, the administrative County of London, will be divided into twenty-nine administrative districts. The previous number was forty-three, consisting of—

|  |    |
|--|----|
| The Corporation of the City of London..... | 1  |
| Administrative Vestries .....              | 29 |
| District Boards of Works .....             | 12 |
| Local Board of Health (Woolwich) .....     | 1  |
|  | —  |
|  | 43 |

Of the twenty-nine vestry areas, fifteen which consist of single parishes are simply changed into boroughs. These are—

|                |              |                 |
|----------------|--------------|-----------------|
| Battersea.     | Hackney.     | Lambeth.        |
| Bethnal Green. | Hammersmith. | Paddington.     |
| Camberwell.    | Hampstead.   | St. Marylebone. |
| Chelsea.       | Islington.   | St. Pancras.    |
| Fulham.        | Kensington.  | Shoreditch.     |

The remaining fourteen vestry districts are absorbed into larger areas. They are—

- Bermondsey, united with Rotherhithe and St. Olave.
- Clerkenwell, absorbed into Finsbury.
- Mile End Old Town, absorbed into Stepney.
- Newington, united with St. George and St. Saviour, Southwark.
- Plumstead, absorbed into Woolwich.
- Rotherhithe, united with Bermondsey and St. Olave.
- St. George, Hanover Square, absorbed into Westminster.

St. George-in-the-East, absorbed into Stepney.

St. George the Martyr, united with Newington and St. Saviour.

St. James', Westminster, absorbed into Westminster.

St. Luke, absorbed into Finsbury.

St. Martin-in-the-Fields, absorbed into Westminster.

Stoke Newington, to which will be added South Hornsey.

Westminster, absorbed into the greater Westminster.

Of the twelve District Board areas only two are constituted boroughs without change of area, namely: Poplar (*i.e.*, Poplar, Bromley, and Bow) and Wandsworth (*i.e.*, Clapham, Mitcham detached, Putney, Streatham, Tooting Graveney, and Wandsworth). The remaining ten District Board areas are dealt with as follows:—

1.—*Greenwich* becomes a borough, embracing the parishes of Greenwich and St. Nicholas, Deptford, which belonged to it before, and Charlton and Kidbrooke, which it takes over from Lee; and losing St. Paul, Deptford, which is made a separate borough.

2.—*Holborn* becomes a borough, embracing, as before, Saffron Hill and St. Andrew and St. George, and taking in Furnival's Inn, Gray's Inn, Lincoln's Inn, and Staple Inn; and also taking over the district of the St. Giles' District Board (*viz.*, St. Giles'-in-the-Fields and St. George, Bloomsbury); but giving up St. Sepulchre to the new borough of Finsbury.

3.—*Lewisham* becomes a borough, embracing the parishes of Lewisham and Lee (obtaining the latter from the area of the Lee District Board). With regard to the hamlet of Penge, formerly in the Lewisham district, sect. 20, p. 117, gives power by Order in Council, to add it either to Lewisham or to Camberwell, or to separate it altogether from the County of London.

4.—*St. Olave*, including its former parishes of St. Olave, Horselydown, and St. Thomas, forms a borough with Bermondsey and Rotherhithe, which were formerly administrative vestries.

5.—*Lee* has its district divided among three new boroughs, the parishes of Charlton and Kidbrooke going to Greenwich, that of Eltham to Woolwich, and that of Lee to Lewisham.

6.—*Limehouse*, and

7.—*Whitechapel* are absorbed in the new borough of Stepney. The Limehouse district embraces the parishes of Limehouse, Shadwell and Wapping, and the hamlet of Ratcliff; that of Whitechapel, the parishes of St. Mary, Whitechapel, and the Minories, Christchurch Spitalfields, St. Botolph Without, Aldgate, Mile End New Town, Norton Folgate, Old Artillery Ground, and the district of the Tower.

8.—*Strand* is absorbed in the new borough of Westminster. Its area embraces St. Anne, St. Clement Danes, St. Paul, St. Mary-le-Strand, the Savoy, and the Liberty of the Rolls.

9.—*St. Giles'*. See *Holborn*.

10.—*St. Saviour*, embracing the parishes of *St. Saviour* and *Christchurch*, is formed into a borough along with *St. George* and *Newington*.

The *Woolwich* Local Board of Health ceases to exist, and a new borough is formed for its area, augmented by the parish of *Plumstead* (previously administered by a vestry) and that of *Eltham*, taken from the *Lee* district. As *Woolwich*, unlike any other part of the *Metropolis*, has hitherto been a Local Board, though it was made a District Council by the Local Government Act of 1894, its case requires special treatment, and accordingly a scheme is provided for by sect. 19, p. 116. A further peculiarity is that three members of the *Woolwich* Board are Government nominees. *Woolwich* owns a municipal market, which is expressly preserved to the new borough by sect. 19, subs. (3), p. 116.

The following table gives the area, population, rateable value, and number of members returned to Parliament for each of the twenty-eight new boroughs and for the City of London, but the areas of *Chelsea*, *Kensington*, *Lambeth*, and *Paddington* will probably be altered, and the destination of *Penge* (the figures for which are given separately) may affect either *Camberwell* or *Lewisham*.

| Name.   | Area<br>in<br>Acres. | Population,<br>1896. | Rateable<br>Value,<br>1899. | No. of<br>Parliamentary<br>Representatives. |
|---|----------------------|----------------------|-----------------------------|---|
| City of London .....  | 670                  | 31,108               | 4,550,624                   | 2   |
| Battersea.....  | 2,169                | 165,115              | 906,235                     | 1   |
| Bethnal Green .....   | 755                  | 129,162              | 457,519                     | 2   |
| Camberwell.....   | 4,450                | 253,076              | 1,193,010                   | 3   |
| Chelsea .....   | 650                  | 75,196               | 744,958                     | 1   |
| Fulham .....  | 1,701                | 113,781              | 639,585                     | 1   |
| Hackney.....  | 3,299                | 213,044              | 1,100,435                   | 3*  |
| Hammersmith .....   | 2,286                | 104,199              | 610,211                     | 1   |
| Hampstead.....  | 2,248                | 75,449               | 851,413                     | 1   |
| Islington.....  | 3,109                | 336,764              | 1,816,925                   | 4   |
| Kensington.....   | 2,188                | 170,465              | 2,127,537                   | 2   |
| Lambeth.....  | 3,941                | 295,033              | 1,712,289                   | 4   |
| Paddington.....   | 1,256                | 124,506              | 1,332,347                   | 2   |
| St. Marylebone .....  | 1,506                | 141,188              | 1,608,771                   | 2   |
| St. Pancras.....  | 2,672                | 240,764              | 1,672,690                   | 4   |
| Shoreditch .....  | 648                  | 122,358              | 708,644                     | 2   |
| Deptford.....   | 1,574                | 107,273              | 549,759                     | 1   |
| Poplar.....   | 2,333                | 169,267              | 746,854                     | 2   |
| (Bow, Bromley, and<br>Poplar.)  |                      |                      |                             |   |
| Finsbury .....  | 588                  | 109,961              | 890,634                     | 2   |
| (Charterhouse, Clerken-<br>well, Glasshouse Yard,<br>St. Luke, and St.<br>Sepulchre.) |                      |                      |                             |   |

\* North Hackney Parliamentary Division includes *Stoke Newington*.



| Name.  | Area<br>in<br>Acres. | Population,<br>1896. | Rateable<br>Value,<br>1899. | No. of<br>Parliamentary<br>Representatives. |
|--|----------------------|----------------------|-----------------------------|---|
| Greenwich .....<br>(Charlton, Deptford St.<br>Nicholas, Greenwich,<br>and Kidbrooke.)  | 3,837                | 84,429               | 517,320                     | 1   |
| Holborn .....<br>(Furnival's, Gray's, Lin-<br>coln's, and Staple Inns,<br>Saffron Hill, St. Andrew<br>and St. George, and St.<br>Giles and St. George.)  | 409                  | 67,400               | 836,851                     | 1   |
| Lewisham .....<br>(Lewisham and Lee.)  | 7,011                | 99,962               | 732,283                     | 1   |
| Bermondsey .....<br>(Bermondsey, Rother-<br>hithe, Horselydown,<br>and St. Olave and St.<br>Thomas.)   | 1,506                | 137,585              | 864,318                     | 2   |
| Southwark .....<br>(Newington, Christ-<br>church, St. George-the-<br>Martyr and St. Saviour.)  | 1,119                | 206,582              | 1,158,775                   | 3   |
| Stepney .....<br>(Limehouse, Mile End,<br>Old and New Town,<br>St. George in-the-East,<br>Whitechapel, Aldgate,<br>Spitalfields, Norton<br>Folgate, Old Artillery<br>Ground, Ratcliff, Shad-<br>well and Wapping.)   | 1,765                | 295,547              | 1,348,943                   | 5   |
| Wandsworth .....<br>(Clapham, Wandsworth,<br>Mitcham detached,<br>Putney, Streatham, and<br>Tooting Graveney.)   | 9,106                | 184,684              | 1,333,109                   | 2   |
| Westminster .....<br>(St. George, Hanover<br>Square; St. Margaret<br>and St. John, St. Anne,<br>St. James and St. Peter,<br>Westminster; St.<br>Clement Danes, St.<br>Martin-in-the-Fields, St.<br>Mary-le-Strand, St.<br>Paul, Covent Garden,<br>the Savoy and the<br>Rolls.) | 2,555                | 193,465              | 4,977,802                   | 3   |

| Name.  | Area<br>in<br>Acres. | Population,<br>1896.    | Rateable<br>Value,<br>1899. | No. of<br>Parliamentary<br>Representatives. |
|--|----------------------|-------------------------|-----------------------------|---|
| Woolwich .....<br>(Woolwich, Eltham,<br>and Plumstead.)          | 8,296                | 106,477                 | 558,194                     | 1   |
| Stoke Newington .....<br>(Stoke Newington and<br>South Hornsey.) | 868                  | 50,000<br>[approximate] | 320,089                     | *   |
| † Penge .....  | 770                  | 21,308                  | 153,310                     |   |

(e) Sect. 17, subs. (2), p. 112, gives power, by Order in Council, to divide parishes or places into parts; and sect. 18, subs. (1), p. 113, gives the like power of dealing with detached parts of parishes.

(f) By sect. 2, subs. (2), *infra*, power is given, by Order in Council, to fix the boundaries of wards. Sect. 16, subs. (1) (f), p. 103, gives power by scheme to make adjustments in the boundaries of the School Board electoral divisions.

**2. Constitution of Borough Councils.**—(1) The Council of each borough (*a*) shall consist of a Mayor, Aldermen, (*b*) and Councillors. Provided that no woman shall be eligible for any such office (*c*).

(2) An Order in Council (*d*) under this Act shall fix the number of councillors (*e*), and fix the number and boundaries of the wards, and shall assign the number of councillors to each ward (*f*), that number being divisible by three (*g*), and regard being had to the rateable value as well as to the population of the wards (*h*).

(3) The number of aldermen shall be one-sixth (*i*) of the number of councillors, and the total number of aldermen and councillors shall not exceed seventy (*j*).

51 & 52 Vict.,  
c. 41.

(4) Except as otherwise provided by or under (*k*) this Act, the provisions of the Local Government Act, 1888 (*l*), with respect to the chairman of the County Council and the county aldermen respectively, shall apply to the mayor and aldermen of a Metropolitan borough respectively, and for this purpose references in that Act of the chairman of

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\* South Hornsey is at present an urban district in the Administrative County of Middlesex, but the Act gives power to incorporate the whole or part of it with the County of London.

† Penge is in the Dulwich Parliamentary Division of the Borough of Camberwell.

the County Council and to county aldermen shall be construed as references to the mayor and aldermen of the borough.

(5) Except as otherwise provided by or under (*k*) this Act, the law relating to the constitution, election, and proceedings of administrative vestries (*m*), and to the electors and members thereof, shall apply in the case of the borough councils under this Act, and the electors and councillors thereof, and Section forty-six of the Local Government Act, 1894 (*n*), relating to disqualifications shall apply to the offices of mayor and alderman. <sup>56 & 57 Vict., c. 73.</sup>

(6) The quorum of the borough council shall be one-third (*o*) of the whole number of the Council.

(7) The mayor and an alderman of a Metropolitan borough shall be required to accept office within the same period as is allowed in the case of a councillor (*p*).

(8) The Local Government Board may, on request made by a borough council, in pursuance of a resolution of the council, passed by a majority of two-thirds of the members present and voting at a meeting of the council duly convened for the purpose, provided that such majority is not less than the majority of the whole council, make an order directing that the whole of the councillors shall retire together on the ordinary day of election in every third year, and may, on like request, rescind any such order (*q*).

(*a*) Notwithstanding the phraseology of this and other clauses of the Act, the authorities created by it differ essentially from municipal boroughs outside London whether these be county boroughs or not. See Introduction, sect. 2 (2), p. 22. And compare sect. 31, subs. (1), p. 136.

(*b*) See sub-sections (3) (4) (5) (7). When once elected, there would appear to be no difference between the functions of aldermen and those of councillors.

(*c*) This express disqualification of women was probably necessary in order to exclude them from sitting on the Councils of Metropolitan boroughs, as but for it they would presumably have continued to be eligible by virtue of sub-section (5). The House of Commons decided, by a majority of 196 to 161, to make them eligible as aldermen and councillors (though not as mayors), but this was disagreed with by the Lords, and on the return of the Bill to the Commons the latter House reversed its former decision. Women cannot sit on Municipal or County Councils. See *De Souza v. Cobden*, 1891, 1 Q.B., 687; and compare *Flintham v. Roxburgh*, L.R., 17 Q.B.D., 44.



56-7 Vict., c. 73.

By the Local Government Act, 1894, women are eligible to sit on Parish (sect. 3, subs. 2), Rural District (sect. 20, subs. 2, and sect. 24, subs. 4), and Urban District Councils (sect. 23, subs. 2); and sect. 31, subs. (1), of the same Act made them in like manner eligible for the Metropolitan vestries and district boards, and for the Woolwich Local Board.

(d) See sect. 15 (1), p. 99. Commissioners are in the first place to be appointed by a committee of the Privy Council. The Commissioners will prepare the Orders (and schemes), and the Committee of Council may settle (*i.e.*, approve with or without alteration) the Orders (and schemes) so prepared, in order that they may be issued under the authority of Her Majesty in Council as Orders in Council, or as schemes under the Act.

(e) These cannot exceed sixty (see subs. 3).

(f) The new boroughs which have hitherto been vestries of single parishes are already divided into wards, and although power is given to alter the number and boundaries of these, probably little change will be made, except so far as may be consequential upon changes of area in the borough. In the other new boroughs, however, a considerable amount of work may have to be done. Assuming the number and boundaries of the wards to have been fixed, it will next be necessary to assign to each ward a certain number of councillors, and the total number for all the wards will give the number of councillors for the borough.

(g) The object of this provision is that one-third of the representatives of each ward may retire each year, where the provisions of subs. (8) for a complete triennial election have not been put into force.

(h) The general effect of this sub-section will be the provision of a council consisting of a number of councillors (not exceeding sixty), which is a multiple of three, and is at the same time divisible into as many parts, not necessarily equal to each other, as there are wards, each part being three or a multiple of three.

The London County Council, as the authority hitherto empowered to divide vestry areas into wards, and to allocate the members among the wards, have proceeded on the basis of rated householders and rateable value; the Commissioners under the Act are to take as basis the population and rateable value.

(i) By the Municipal Corporations Act, 1882, sect. 14, subs. 2, it is provided that the number of aldermen of a municipal borough is to be *one-third* of the number of councillors. This provision was extended to County Councils by the Local Government Act, 1888, sect. 75; but an exception is made as to London by sect. 40, subs. (5), which provides that "the number of county aldermen in the administrative county of London shall not exceed *one-sixth* of the whole number of county councillors." It will be observed that the wording in the present

45 & 46 Vict.,  
c. 50.

Act is "shall be" one-sixth. This may possibly cause a different operation from that which obtains in the London County Council. In the latter, the number of councillors is 118, and consequently the number of aldermen is nineteen (otherwise they would "exceed" one-sixth of the number of councillors); but if the wording had been "shall be one-sixth," that expression might be held to justify the election of twenty aldermen.

(j) As the mayor need not necessarily be an alderman or councillor, the maximum number of members of a metropolitan borough council will be seventy-one. See Appendix A, note 4, p. 196, and Appendix B, p. 228.

(k) The words "or under" refer to the various powers given to the Privy Council of making Orders, the powers of framing schemes, and the application of other Acts.

(l) This embraces not only the express provisions of the Local Government Act, 1888, but also the provisions of the Municipal Corporations Act, 1882, which are applied to County Councils by sect. 75 of the Local Government Act, 1888. For these provisions see Appendix A, pp. 195, *sqq.*

(m) For the enactments hereby applied in relation to the constitution, election, and proceedings of metropolitan borough councils, and to the electors and members thereof, see Appendix B, pp. 201, *sqq.*

(n) For section 46 of the Local Government Act, 1894, and notes thereon, see Appendix B, pp. 218, *sqq.*

(o) The quorum of a County Council is *one-fourth* of the whole number of the Council (Local Government Act, 1888, sect. 75, subs. 15). The quorum of a Municipal Council is one-third, and that of a District Council one-third, subject to this qualification, "that in no case shall a larger quorum than seven members be required" (Public Health Act, 1875, sched. I. (1), (2), as applied by Local Government Act, 1894, section 59 (1)). As to special quorums, see note 16 to Appendix B, p. 208, and Introduction, p. 28.

38 & 39 Vict.,  
c. 55.  
56 & 57 Vict.,  
c. 73.

(p) The time for acceptance of office, under the Municipal Corporations Act, 1882, sect. 34, subs. (1), was fixed at five days after notice of election, but the Local Government Board, under the powers given to them by sect. 48 of the Local Government Act, 1894 (Appx. B., p. 202), extended it, for London, to one month (Appx. B., note 57, p. 223).

(q) Presumably, any such order, once made, will remain in force until rescinded in like manner. A somewhat similar proviso, with regard to Urban District Councils, is contained in the Local Government Act, 1894, sect. 23, subs. 6, which enacts that "a County Council may, on request made by a resolution of an Urban District Council, passed by two-thirds of the members voting on the resolution, direct that the members of such Council shall retire together on the 15th day of April in every third year." In this case, however, the



majority voting for the resolution need not be a majority of the whole Council, but only of two-thirds of it; and there appears to be no provision for rescinding such an order when once made. And there is a like provision with respect to Rural District Councils in sect. 20, subs. 6 (a), read along with sect. 24, subs. 4; but in this case an application to the County Council by a bare majority of the District Council would appear to be sufficient. As to the "ordinary day of election," see sect. 3 (2), *infra*.

With regard to the merits of the policy of triennial election as compared with annual elections in thirds, opinions have differed; but there has been a growing tendency in London in favour of the former. The system whereby one-third retire each year, leaving two-thirds still in office, is defended on the ground that it secures continuity of administration. On the other side, however, it is urged—

(a) That continuity of administration is, to a certain extent, obtained by the longer period of tenure of the aldermen, and also by the fact that some of the old members are invariably re-elected.

(b) That annual elections, while involving more expenditure to the rates and to candidates, do not evoke nearly so much interest among the electors as a general triennial election, at which the whole policy of the former Council can be reviewed and discussed.

(c) Under the annual system, the hold of the constituents upon their representatives is less firm; indeed, it is possible that the majority remaining in office may continue a policy in direct opposition to the views of the electors.

(d) The same system tends to diminish both the feeling of responsibility and the zeal of the members. A man is more likely to pay attention to public opinion and to be assiduous in the performance of his public duties when he, in common with all his colleagues, has to face the whole electoral body at a general election than when his position is secured for a time. And, further, it tends to discourage the ardour and public spirit of new men to find themselves in a minority among old members, who may be wedded to an obsolete policy or to old routine.

Date for elections  
of councillors

**3. Date for election of Councillors.**—(1) The first elections of all borough councillors under this Act shall be held on the first day of November, one thousand nine hundred, or on such later day, as soon as practicable thereafter, as may be fixed by the Lord President of the Council, who shall also fix a corresponding date for the first elections of mayor and aldermen.

(2) The ordinary day of election of borough councillors



shall be the first day of November, or if that day is Sunday, then the following day.

(3) The ordinary day of election of the mayor and aldermen shall be the ninth day of November, or if that day is Sunday, then the following day.

(4) The revised list of voters (*a*) in each borough shall in each year after the year one thousand nine hundred (*b*), be printed and signed before the twentieth day of October, and come into operation as the register for the purpose of borough elections on the first day of November.

(*a*) The clerk of the Council (to be called the town clerk) will be the responsible officer for the preparation of the lists of voters (see sect. 4, subs. (1), *infra*; sect. 11, subs. (1), p. 89; sect. 27, subs. (2), p. 128).

(*b*) The lists for the year 1900 will be arranged for by Order in Council. See sect. 27, subs. (3), p. 128.

## POWERS OF BOROUGH COUNCILS.

**4. Transfer to borough councils of powers from vestries and district boards.**—(1) On the appointed day (*a*) every elective vestry (*b*) and district board (*c*) in the County of London (*d*) shall cease to exist, and subject to the provisions of this Act and of any scheme made thereunder (*e*), their powers and duties, including those under any local Act (*f*), shall, as from the appointed day, be transferred to the council for the borough comprising the area within which (*g*) those powers are exercised, and their property and liabilities shall be transferred to that council, and that council shall be their successors, and the clerk of the council shall be called the town clerk, and shall be the town clerk within the meaning of the Acts relating to the registration of electors (*h*).

Provided that in the case of borrowing powers (*i*) so transferred, if the London County Council refuse their sanction, or do not within six months after application give their sanction, to a loan, or attach conditions to their

sanction (*j*), an appeal shall lie to the Local Government Board, whose decision shall be final.

(2) Where any of the adoptive Acts (*k*) is adopted within a borough, the borough council shall be the authority for administering this Act (*l*); and where any such Act has been adopted before the appointed day (*m*), and is administered by Commissioners or a board, a scheme under this Act (*n*) shall abolish the Commissioners or board, and transfer their powers, duties, property, and liabilities to the borough council.

(3) The powers of a borough council shall, save as in this Act mentioned (*o*), extend to the whole of their borough.

Provided that any power or duty of the council under any Act, whether general or local, conferring powers in relation to some particular parish or district (*p*), or part of a parish or district, shall be exercised and performed by the council either throughout the borough or in a limited part thereof, or shall cease to be exercised and performed, as may be provided by a scheme under this Act, having regard to the object of the Act under which the power or duty arises, and to the nature of any change of area (*q*), or alteration of boundary (*r*) made by or under this Act.

(4) Any of the adoptive Acts (*k*) may be adopted in a metropolitan borough in like manner (*s*) in a borough outside London, and not otherwise, and when any of the adoptive Acts adopted before the appointed day (*a*) does not extend to the whole borough, the Act may be adopted in the rest of the borough in like manner as if it were a separate borough, and the borough council were the council thereof (*t*).

(*a*) The meaning of this expression is given in sect. 33 (1), p. 140.

(*b*) This expression includes not only the administrative vestries mentioned in Schedule A to the Metropolis Management Act, 1855, as amended by subsequent Acts; but also the vestries of the several parishes in the districts of the District Boards mentioned in Schedule B to that Act. See sect. 34, p. 142. It also includes for the purposes of this section the Local Board of Woolwich. Sect. 19, subs. (2), p. 116.

(c) See Schedule B. to the Metropolis Management Act, 1885, as amended by subsequent Acts.\*

(d) The expression the "County of London" means the Metropolis outside the city (Local Government Act, 1888, sect. 40, subs. (2)).

(e) By sect. 27, subs. (4), p. 128, it is provided that the members of vestries and district boards are to go out of office "on the day on which the first borough councillors elected under this Act come into office." This will not necessarily be the "appointed day." See sect. 33, subs. (1), p. 140. As to schemes under the Act, compare subs. (2), (3) of this section; also sect. 16, p. 102.

(f) For a summary of the principal powers and duties so transferred and the statutes creating them, see Appendix D, pp. 237, *sqq.*

(g) In those cases where the new areas are the same as the old, this transfer will be simple enough; but in other cases there may be considerable difficulties requiring careful adjustment by scheme or otherwise. The shares of the respective boroughs in the property and burdens of their component parts, including, among other matters, their shares of debt due to the London County Council or to other creditors, will require to be ascertained, adjusted, and apportioned.

Take, as a comparatively simple instance, the new borough of Greenwich. The area of this borough, and, of course, its population and rateable value, will be totally different from those of the old Greenwich district. Thus—

|                       | Area.<br>Acres. |     | Population,<br>1896. |     | Rateable Value,<br>1898. |
|-----------------------|-----------------|-----|----------------------|-----|--------------------------|
| Greenwich District... | 3,425           | ... | 175,774              | ... | £926,025                 |
| Greenwich Borough     | 3,827           | ... | 84,429               | ... | 501,088                  |

\* The Districts in Schedule B were—

1, Whitechapel, 2, Greenwich, 3, St. Giles, 4, Holborn, 5, Strand, 6, Limehouse, 7, Poplar, 8, St. Saviour; these eight have remained unaltered till the passing of the present Act—

9. *Westminster*.—This was changed into a (united) Vestry in 1887—50 and 51 Vict., c. 17.

10. *Wandsworth*.—This District included Battersea until 1887, when the latter parish was made a separate administrative vestry—50 and 51 Vict., c. 17.

11. *Hackney*.—This District was dissolved in 1894, and out of it were formed the two administrative vestries of Hackney and Stoke Newington—56 and 57 Vict., c. 55.

12. *Fulham*.—This District was dissolved in 1885, and out of it were formed the two administrative vestries of Hammersmith and Fulham—48 and 49 Vict., c. 33, sect. 3.

13. *Plumstead*.—In 1894 the parish of Plumstead was separated from this District, and became an administrative vestry, the remainder of the District continuing to be administered (under the name of the Lee District) by a Board of Works—56 and 57 Vict., c. 55.

14. *Lewisham*; and 15. *St. Olave*.—Until the dissolution of the Metropolitan Board of Works under the Local Government Act, 1888, Lewisham and Plumstead Districts were united for the purpose of sending one member to the Metropolitan Board of Works, and similarly the parish of Rotherhithe was united with the District of St. Olave.



Again, compare the amount of the outstanding loans, raised on the credit of the rates, and the annual charges to the same in the respective areas for the years 1897-8 :

|                         | Loans out-<br>standing. |     | Annual<br>charge. |
|-------------------------|-------------------------|-----|-------------------|
| Greenwich District..... | £1,005,395              | ... | £66,117           |
| Greenwich Borough ...   | 503,274                 | ... | 33,689            |

Other initial difficulties, of great importance, will arise in relation to the incidence of the rates. Where, for example, a parish in which there are many properties exempted, in whole or in part, from rating (as to which see Introduction, p. 38, and sect. 10, subs. (1), p. 87) is united with one containing proportionately few such properties, the general rate will fall relatively more heavily on the latter than on the former, unless an adjustment can be effected by scheme.

(//) Compare sect. 27, subs. (2), p. 128. See 6-7 Vict., c. 18, sect. 101 ; 31-2 Vict., c. 58, sect. 18 ; 41-2 Vict., c. 26, sect. 17.

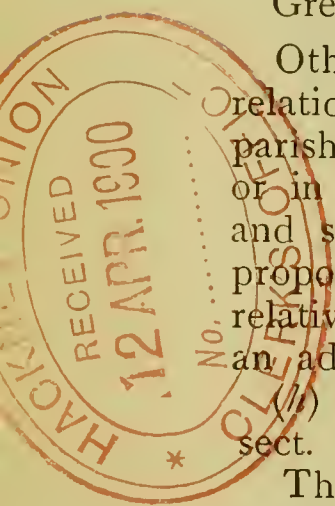
The same person cannot hold the office of town clerk and borough treasurer under sect. 9, subs. (1), of the Act. See Metropolis Management Act, 1855, sect. 63, Appendix C., p. 230.

(i) By the Metropolis Management Act, 1855, sect. 183 (see Appendix E., p. 257), power is given to vestries and district boards to borrow money at interest on mortgage, on the credit of the rates ; “ provided always, that no monies shall be so borrowed by any district board or vestry without the previous sanction, in writing, of the Metropolitan Board of Works ” (for which last-named Board the London County Council is substituted under the Local Government Act, 1888, sect. 40, subs. (8)). Further borrowing powers, but limited by the same proviso, were given by the Metropolis Management Amendment Act, 1862, sects. 72 and 100 ; by the Public Health (London) Acts, 1891 and 1893 ; by the Housing of the Working Classes Act, 1890, and by other Acts. See Appendix E., pp. 257, *sqq.*

There are other borrowing powers which require the consent of the Local Government Board, or the Treasury.

(j) The London County Council, by its annual Money Acts, has power to lend money to the several vestries and district boards (as well as to other metropolitan authorities). The Council itself borrows money within the limits and conditions of those Acts for the periods provided in them ; and, on the other hand, for the purpose of lending, they specify the several classes of authorities to whom it is proposed to lend and the limit of the amount to be advanced within the stated period.

In practice, the vestries and district boards now borrow any money they may require for capital expenditure under their borrowing powers from the London County Council, but the Council has hitherto had a discretion to refuse its sanction to the borrowing, and will still presumably have the right to refuse to lend. In case of a refusal by the Council to sanction a



loan at all, a vestry or district board has hitherto had no means of effecting the object desired except by raising the amount out of rate, a course which would seldom be practicable. The boroughs, however, will henceforth have a right of appeal to the Local Government Board.

Of course, the London County Council might give its sanction to the borrowing, and yet refuse to lend the money. In this case the local authority would have to go elsewhere for the loan, and might have to pay a higher rate of interest. But see note 3 to Appendix E., p. 258.

The ordinary practice, when a local authority requires a loan for any purpose, is to apply to the London County Council for its sanction to the borrowing, and at the same time to apply for the loan itself. Details are required of the purposes for which the money is wanted, and each case is examined into by the proper officers of the Council, and reported upon by them to the Finance Committee, who deal, moreover, with the question of the period of time which the loan is to cover, the rate of interest, and the mode of repayment; and who finally make a report and recommendation thereon to the Council.

The general supervising power given to the County Council in cases where that body is asked to lend, is contained in sect. 14 of the Metropolitan Board of Works (Loans) Act, 1875, 38 and 39 Vict., c. 65 :

“Where application for a loan is made to the *Council* by any body to which the *Council* are authorised by this or any other Act to lend money, the *Council* may, as a condition precedent to the making of the loan, and to the payment from time to time of any money as part thereof, require that body to frame and deliver to the *Council*, from time to time, returns giving, in relation to the parish, district, union, or place in respect whereof the loan is applied for, such information respecting the financial condition of the body applying as the *Council* think expedient.”

There are always, in practice, some “conditions attached” to the loan, such, for example, as that all proper evidences shall be furnished to the satisfaction of the Council’s solicitor, that the loan shall be taken up forthwith, etc. Such conditions as these, however, may be regarded as “common forms,” and will probably not give rise to appeals. But it frequently occurs that the Council will only sanction the borrowing of (or, at all events, will itself only consent to lend) a part of the amount asked for; or will not extend the loan over so long a time as is desired, or will couple its sanction with other conditions or notifications according to the nature of the case. It is presumed that it is to conditions of this kind that the proviso is intended to apply. It will not (it is suggested) give to the Local Government Board the power to compel the London County Council to lend money, or to lend money on any other conditions or for other periods than the Council is itself prepared to agree to; but



will enable the borough council to apply for the loan elsewhere if unable to come to terms with the County Council.

Money lent by the London County Council is advanced out of the "Consolidated Loans Fund," a fund created and maintained under the provisions of the Metropolitan Board of Works Loans Act, 1869, section 26; 32 and 33 Vict., c. 102.

The periods for which loans can be made are always subject to the approval of the Treasury, and vary in duration according to the permanency and nature of the purpose or work on which the money is to be expended. For example, loans for the purpose of purchasing freehold sites may be spread over fifty years; for electric light installations over forty-two years or less; for street lighting, over thirty years as a maximum; for paving, over twenty years to five years, according to the durability of the paving, whether granite, asphalt, wood, etc.

The present rate of interest charged to vestries and district boards is three per cent. per annum for loans of £10,000 and upwards, and for loans of less than £10,000, £3½. It is possible, however, that after the Act has come into operation these rates may in some instances be lowered.\* Compare note 3 to Appendix E., p. 258.

With regard to the mode of repayment, two distinct methods are in operation, known respectively as the instalment system and the annuity system. Under the former, the interest is payable separately every quarter, and the principal is repaid by equal annual instalments of such amount as will replace the capital sum borrowed in the prescribed period; under the latter, the principal and interest are combined into equal half-yearly payments, so calculated in amount that the sum borrowed will be repaid in the time specified. The interest under the annuity system, though payable half-yearly along with the principal, is calculated quarterly.

In some instances, where loans have been advanced for electric lighting installations, the Council has allowed the first repayment of principal to be deferred for a few years, until the works were completed and might be expected to begin to be remunerative.

Occasionally applications have been made, and consented to, for leave to anticipate the period for repayment of the principal or of part of it.

By sect. 6, subs. (5), p. 73, a Borough Council may, with the consent of the Local Government Board, alienate land and apply the proceeds of its sale in discharge of loans.

(*k*) The "Adoptive Acts" are statutes having for their objects the introduction into areas of local administration measures of various kinds tending to promote the health, comfort, or amenities of local life. These Acts are the Baths and Wash-

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\* It has recently been decided, owing to the state of the money market, to raise the rate of interest for the present.



houses Acts, 1846 to 1896; the Public Libraries Acts, 1892 to 1893; and the Burial Acts, 1852 to 1885. See sect. 34, p. 142.

*Baths and Wash-houses.*—The principal Act is that of 1846; it has been amended in matters of detail by Acts passed in 1847, 1871, 1878, and 1882; and extended by the Public Health Act, 1875, sect. 10; and by the Local Government Act, 1894, sects. 7 and 53. See Appendix F. I., pp. 269-71, and note (h) to sect. 34, p. 144. 38 & 39 Vict.,  
c. 55.  
56 & 57 Vict.,  
c. 73.

*Public Libraries.*—The Acts relating to the establishment and maintenance of Public Libraries were consolidated by the Public Libraries Act, 1892; and this was amended by the Public Libraries (Amendment) Act, 1893, and extended by the Local Government Act, 1894, sects. 7, 53. See Appendix F. III., pp. 273, *sqq.* 55 & 56 Vict.,  
c. 53.  
56 Vict., c. 11.

*Burial Grounds, &c.*—A list of the Acts known as the Burial Acts is given in note (h) to sect. 34, p. 144, and a summary of their provisions will be found in Appendix F. II., pp. 271-3.

(l) The effect of this provision is that henceforth the adoptive Acts will not be administered anywhere in the Metropolis by Commissioners or Boards; as the existing baths and wash-houses and library commissioners, and burial boards, will be abolished by scheme and their functions transferred to the Council.

(m) See sect. 33 (1), p. 140. The Burial Acts have been adopted in twenty-nine parishes or unions in the Metropolis, the Baths and Wash-houses Acts in thirty-four, and the Public Libraries Acts in thirty-six. A table is given in Appendix F., p. 276, showing the boroughs in which any of the Adoptive Acts are now in force, and whether over the whole borough or only a part.

(n) See sect. 15, subs. (1), p. 99; and sect. 16, p. 102.

(o) See the proviso immediately following; see also subs. 4; and sect. 10, subs. (4), p. 87; provisions of schemes under sect. 16, p. 102; sect. 16 (3), p. 103.

(p) There are a great number of such provisions, some in general and some in local Acts. See also sect. 10, subs. (4), p. 87, and note (m) to that section, p. 88.

(q) See sect. 17, subs. (2), p. 112; sect. 18, p. 113; sect. 20, p. 117.

(r) See sect. 2, subs. (2), p. 52; sect. 16 (1) (f), p. 103; sect. 26, subs. (1), p. 126.

(s) That is to say, in each case, as provided by the enactments relating to the particular adoptive Act. See Appendix F., pp. 269, *sqq.*

(t) This seems to imply that in a case of this kind the borough Council as a whole may legislate for a part of its area; in other words, even those councillors who do not represent (*qua* the division into wards) the portion of the borough which it is sought to affect, will have the right to vote for (or against) a proposal to extend the adoptive Acts into that portion.

With this may be compared the provision of the Local Government Act, 1888, sect. 41, subs. 6, that "The County Councillors elected for the city shall not act or vote in respect of any question arising before the County Council as regards matters involving expenditure, on account of which the parishes in the city are not for the time being liable to be assessed equally with the rest of the administrative county to county contributions."

**5. Transfer of powers from London County Council.**—(1) As from the appointed day (*a*) the powers and duties of the London County Council under the enactments mentioned in Part One (*b*) of the Second Schedule to this Act shall, subject to the conditions mentioned in that schedule (*c*), be transferred to each borough council as respects their borough.

(2) As from the appointed day (*a*) the powers of the London County Council, under the enactments mentioned in Part Two (*d*) of the Second Schedule to this Act may, subject to the conditions mentioned in that schedule (*e*), be exercised also by each Borough Council as respects their borough.

(3) The Local Government Board may, if they think fit, on the application of the London County Council and of the majority of the Borough Councils, make a Provisional Order (*f*) transferring to all the Borough Councils any power exerciseable by the County Council, or for transferring to the County Council any power exerciseable by the Borough Councils.

(4) The Local Government Board may also, on the joint application of the London County Council and the Common Council of the City of London, make a Provisional Order (*f*) transferring any power from the County Council to the Common Council, or from the Common Council to the County Council.

(*a*) See sect. 33, subs. (1), p. 140.

(*b*) These powers are contained in four enactments, three of which occur in the London Building Act, 1894, and the fourth in the Public Health (London) Act, 1891. The London Building Act, 1894, is a Local Act,\* whereby the Metropolitan Building

\* That is, it is nominally local, and is printed among the local and personal Acts and not among the public general Acts. It is, nevertheless, a public Act in reality, since by Sect. 9 of the Interpretation Act, 1899 (52 and 53 Vict. c. 63), "every Act passed after the year 1850 . . . shall be a public Act . . . unless the contrary is expressly provided by the Act."

57 & 58 Vict.,  
c. ccxiii.  
54 & 55 Vict.,  
c. 76.



Acts and the provisions of the Metropolis Management and other Acts in relation to streets and buildings in the metropolis were repealed, and their provisions amended and consolidated.

The Act is divided into sixteen parts. Part I. is introductory. Sect. 5 of this part contains a number of definitions of terms connected with buildings, and of the terms "street" and "way." "Local authority" means, outside the city, the vestries and district boards; it will, therefore, mean the Metropolitan boroughs.

Part II. deals with the formation and widening of streets; Part III. with lines of building frontage, and Part IV. with the naming and numbering of streets. Part V. contains the provisions relating to open space about buildings, and to the height of buildings. Part VI. contains detailed regulations as to the construction of buildings, including walls, roofs, chimneys, staircases, &c. Part VII. deals with temporary buildings and wooden structures. Part VIII. is concerned with the rights of building owners and of adjoining owners. Part IX. contains provisions as to dangerous and neglected structures. Part X. gives regulations restricting building near to where dangerous or noxious businesses are carried on, and Part XI. gives provisions against building dwelling-houses on land below Trinity high-water mark. Part XII. gives the legislation as to sky-signs, in substitution for that of the London Sky Signs Act, 1891 (54 and 55 Vic., c. lxxviii.), which is repealed. Part XIII. lays down in detail the powers and duties of the superintending architect and district surveyors appointed by the London County Council. Part XIV. gives power to the London County Council to make bye-laws with respect to a large number of specified matters, but all such bye-laws must be allowed by the Local Government Board. Part XV. provides for legal proceedings in respect of offences against the Act, including demolition orders. It also creates a tribunal of appeal to hear and determine appeals referred to them under the Act. This tribunal is in substitution for the corresponding tribunals created by the London County Council (General Powers) Acts, 1890 and 1893, the sections of which relating to those tribunals are repealed. Part XVI. contains miscellaneous provisions, including, in sect. 201, various buildings and classes of buildings which are exempted from Parts VI. and VII. Schedules are added containing various regulations.

Section 84 occurs in Part VII., section 134 in Part XII., and section 199 in Part XVI. The powers contained in these are transferred to Borough Councils by Part I. of Sched. II. of the present Act. Sect. 170 occurs in Part XV., and sects. 197 and 200 (11) (*h*) in Part XVI. Powers under these sections are given to Borough Councils by Part II. of Sched. II. See Appendix D. 4, p. 242.

By sect. 28 of the Public Health (London) Act, 1891, power is given to the Local Government Board to make general or special

<sup>54 & 55 Vict.,  
c. 76.</sup>



orders "for the registration with the County Council of all persons carrying on the trade of dairymen," and for other matters relating to the milk trade, and also "for authorizing the County Council to make bye-laws for the purposes aforesaid." The County Council, for the purpose of enforcing the said orders and bye-laws, are given rights of entry and inspection, and the Local Government Board may impose fines. In the city of London the Common Council are substituted for the County Council.

(c) That is to say, subject to the consequences, in case of default, provided by the Public Health (London) Act, 1891, sects. 100, 101.

By sect. 100, the County Council, on default by a sanitary authority, may itself perform the duties in question, and recover its expenses from the sanitary authority in default. And by sect. 101, the Local Government Board, if satisfied (after complaint and inquiry) that a sanitary authority have made default, and that the complaint cannot be remedied under the other provisions of the Act, may make an order limiting a time for the performance of the duty which has been neglected; and if the duty is not performed within that time, the order may be enforced by mandamus, or the Local Government Board may appoint the County Council to perform the duty. In the latter case the County Council may recover its expenses from the defaulting authority.

(d) These are cases where *concurrent* jurisdiction is given to Borough Councils, in addition to the County Council; but their exercise is localised by the conditions mentioned. For the applied sections of the London Building Act, 1894, see Appendix D. 4, p. 244.

34 & 35 Vict.,  
c. 113.

The Metropolis Water Act, 1871, requires the water companies to make regulations for preventing the waste, undue consumption or contamination of water; such regulations are subject to confirmation by the Board of Trade,\* who have full powers of supervision. Notice of all regulations must be served on the London County Council (as successors of the Metropolitan Board of Works—Schedule A.), who must keep a printed copy thereof at their office for free public inspection (sects. 17 to 25). See Appendix D., p. 251.

51 & 52 Vict.,  
c. 25.

The Railway and Canal Traffic Act, 1888, created the Railway and Canal Commission as a Court of Record, with the jurisdiction, powers and duties specified or referred to in the Act. By sect. 7 power is given to (among others) the Metropolitan Board of Works (now the London County Council) "or any Urban Sanitary Authority," to make to the Commissioners any complaint which the Commissioners have jurisdiction to determine, and to appear in opposition to any such complaint if

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\* By the Public Health Act, 1875 (38 & 39 Vict., c. 55), Sched. V., Part III., the powers and duties of the Board of Trade, under the Metropolis Water Acts, were transferred to the Local Government Board.

they, or the persons represented by them, appear to the Commissioners to be likely to be affected by any determination of the Commissioners upon such complaint. The matters “which the Commissioners have jurisdiction to determine,” and consequently which may be the subject of complaint, are very numerous. In the first place, all the jurisdiction of the Railway Commissioners appointed under the Railway and Canal Traffic Act, 1873, is transferred to the Railway and Canal Commission established by this Act (sect. 8). This jurisdiction includes power to hear and determine complaints of acts or omissions in contravention of the Railway and Canal Traffic Act, 1854, sect. 2, as amended by the Act of 1888, sect. 25; *i.e.*, the giving of facilities for traffic, without unreasonable delay or undue preference, including through traffic—in contravention of the Regulation of Railways Act, 1868, sect. 16, *i.e.*, the prevention of undue preferences in tolls charged for conveyance on steam vessels—or in contravention of the Act of 1873 or of any enactment amending or applying those enactments. Among the provisions of the Act of 1873 in this connexion are—

36 & 37 Vict.,  
c. 48.

17 & 18 Vict.,  
c. 31.

31 & 32 Vict.,  
c. 119.

36 & 37 Vict.,  
c. 48.

Rates for carriage of goods to be published (sect. 14\*); power to Commissioners to fix terminal charges (sect. 15); provisions against traffic arrangements between railway and canal companies prejudicial to the public interest (sect. 16), &c. Further, the Railway and Canal Commission have power to deal with provisions in special Acts relating to traffic facilities or undue preference, or to the provision of stations, roads, or other similar work for public accommodation; and with provisions in any Act relating to private branches or sidings (sect. 9); to determine the legality of tolls and charges (sect. 10); to order two or more companies to make mutual arrangements (sect. 14); to apportion between a railway company and public authorities the expenses of bridges, subways, approaches, &c.; to decide upon the reasonableness of through rates (sect. 26); to hear complaints of unfair or unreasonable charges (sect. 31); and to make rules with respect to various matters.

By the Local Government Act, 1888, sect. 65, power is given to County Councils, for the purpose of any of their powers and duties, to acquire, purchase, take on lease or exchange any lands, or any easements or rights over or in land, whether situate within or without the county,† and to acquire, hire, erect, and furnish such halls, buildings, and offices as they may from time to time require, whether within or without their county.

51 & 52 Vict.,  
c. 41.

The Housing of the Working Classes Act, 1890, is “an Act to consolidate and amend the Acts relating to Artizans’ and Labourers’ Dwellings and the Housing of the Working Classes.” It consolidates, amends, and repeals the series of statutes

53 & 54 Vict.,  
c. 70.

\* And see 51 & 52 Vict., c. 25, sect. 34.

† This, it is submitted, does not confer power on a County Council to purchase and hold land outside their own county for the purposes of Part III. of the housing of the Working Classes Act, 1890, 53 & 54 Vict., c. 70.



commonly called "Lord Shaftesbury's Acts," and officially entitled "The Labouring Classes Lodging Houses Acts, 1851 to 1885."

The Act is divided into seven parts, of which Parts V. and VI. deal respectively with the application of the Act to Scotland and Ireland (these provisions have been since amended), and Part VII. contains the repealing and transitory clauses.

Part I. (sects. 2 to 28) deals with unhealthy areas in a given district, and confers upon the "local authority" powers to make and carry out improvement schemes, subject, however, in each case, to a Provisional Order, to be confirmed, in the ordinary way, by a confirming Act. In London the Provisional Order is to be made by a Secretary of State (practically the Home Secretary), elsewhere by the Local Government Board (sect. 8).

For the purposes of Part I. of the Act, the term "local authority" means, in the city, the Common Council, and in the rest of the Metropolis the London County Council (sect. 92 and Schedule I.); and the Metropolitan boroughs which have no powers under this part; except—

(1) That any medical officer of health in London may (and in certain cases must) make "an official representation" which will set the County Council in motion (sect. 5);

(2) Where not more than ten houses are affected, the Vestry or District Board becomes the "local authority," and the case is dealt with under Part II. (sect. 72).

(3) The London County Council may submit a resolution to the Home Secretary that in their opinion the case is one which should be dealt with under Part II.; and the Home Secretary may, after a local inquiry has been held, decide either that the case shall be dealt with under Part I., or under Part II., and in the latter case may, or may not, provide, according to whether the case is (in the opinion of the arbitrator holding the local inquiry) or is not of general importance to the County of London, for a contribution by the London County Council towards the expenses (sect. 73).

Part II. (sects. 29 to 52) deals with unhealthy dwelling-houses, including—

(1) Dwelling-houses so dangerous or injurious to health as to be unfit for human habitation;

(2) Obstructive buildings, *i.e.*, buildings so situate that by reason of their proximity to or contact with other buildings they stop ventilation or make such other buildings unfit for habitation or dangerous or injurious to health, or prevent proper measures being taken for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings.

(1) Where a dwelling-house is unfit for habitation it is the duty of the "local authority" to take proceedings against the owner or occupier for closing it (sect. 32).

It is the duty of every "local authority" to cause inspection to be made from time to time in order to ascertain whether any



dwelling-house in their district is unfit for habitation (sect. 32 (1)). Further, it is the duty of the medical officer of health of every district to represent every such case to his local authority (sect. 30), and on complaint from four or more neighbouring householders he must make inspection and transmit the complaint and his report thereon to the local authority (sect. 31).

Further, a representation from the medical officer of health of the county to the County Council, and forwarded by them to the local authority, has the same effect as a representation from the medical officer of the district (sect. 52).

The proceedings for closing are taken before a court of summary jurisdiction, which court may impose a penalty not exceeding £20, and may make a closing order (sect. 32, subs. 2).

The proceedings are directed to be taken, in London, under the provisions of the Nuisances Removal Act, 1855, sects. 12, 13; as modified by sect. 21 of the Sanitary Act, 1866, which requires the authority, previous to taking proceedings, to "serve a notice on the owner or occupier of the premises on which the nuisance arises, to abate the same, and for that purpose to execute such works, and to do all such things as may be necessary within a time to be specified in the notice."

18 & 19 Vict.,  
c. 121.  
29 & 30 Vict.,  
c. 90.

These Acts were, however, repealed by the Public Health (London) Act, 1891,\* but their provisions in the present connexion are kept alive and re-enacted in amended form by the latter Act, sect. 142, subs. (7). See Public Health (London) Act, 1891, sect. 2, subs. (1) (a); sect. 1; sect. 3; sect. 4; sect. 5, subs. (7) (8) (9). An appeal lies to Quarter Sessions from a closing order or penalty.

54 & 55 Vict.,  
c. 76.

Proceedings may be taken in the High Court instead of summarily (P. H. [London] Act, 1891, sect. 13).

When a closing order has been made, the local authority must serve a notice thereof on every occupying tenant of the house, and every such tenant and his family must, within the time specified in the notice (which, however, must not be less than seven days), cease to inhabit the house, under a penalty not exceeding twenty shillings a day. But the court making the order may authorise the local authority to make, and the latter may accordingly make, to the tenant an allowance on account of his expenses in removing, and may recover the amount summarily from the owner (sect. 32).

53 & 54 Vict.,  
c. 70.

A closing order may be cancelled by a court of summary jurisdiction if satisfied that the dwelling-house has been rendered fit for habitation. (P. H. [London] Act, 1891, sect. 5, subs. (8)).

54 & 55 Vict.,  
c. 76.

If a closing order has been made and not cancelled, and the local authority are satisfied that the dwelling-house has not been rendered fit for habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, and that the continuance of any building being or being part of the

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\* Except one section (41) of the Act of 1866.

dwelling-house is dangerous or injurious to health, they may take steps for its demolition (sect. 33).

The first step is to serve not less than a month's notice on the owner to attend and state his objections to the demolition. After hearing such objections, the local authority may, if they think it expedient, and unless the owner undertakes forthwith to execute the necessary works for rendering the house fit for habitation, order the demolition of the building; and if the owner gives such undertaking but does not carry it out to completion within the time specified by the local authority (which time they or a court of summary jurisdiction may extend), then also the local authority are to order the demolition of the building (sect. 33).

An appeal lies against a demolition order to Quarter Sessions: notice of appeal may be given within a month after service of notice of the order. And the court must, at the request of either party, state a special case for the High Court, in which case the proceedings may be removed into that Court (sect. 35).

An owner who has completed works required by order under this part of the Act, may obtain from the local authority a charging order, creating a charge on the dwelling-house to the amount of the costs, charges, and expenses of the works, and of the costs of obtaining the charging order; such charge being by way of annuity at the rate of 6 per cent., spread over 30 years (sect. 36).

(2) As to "obstructive buildings," the local authority may be set in motion either by the medical officer or by any four or more inhabitant householders. If the local authority thereupon decide to proceed, they must give notice to the owner to attend and state his objections to the pulling down of the alleged obstructive building; and after hearing him they may either allow the objections or order the building to be pulled down. But such order is subject to appeal, as in the case of a demolition order (sect. 38, subss. 1 to 3).

Where such order has been made and not successfully appealed from, the local authority may purchase the site compulsorily, unless the owner of the site, within one month after service on him of notice to purchase, declares his desire to retain the site. In this latter case he is to receive compensation for the building: this compensation (to be determined in case of difference by arbitration) is to be paid to him by the local authority. But the Act applies the "Betterment principle" within the limits of the definition of obstructive building in sect. 38, subs. (1); that is, to the "other buildings" in "proximity to or contact with" the obstructive building. So that where, in the opinion of the arbitrator, the demolition of an obstructive building adds to the value of those other buildings, they will be charged respectively, by apportionment, with such increment of value, in payment of the compensation for demolition; and such charges will be leviable by the local authority by improvement rates.



The arbitrator will be appointed by the Local Government Board. In settling the amount of compensation, he is to have regard (*inter alia*) to any increased value given to other dwelling-houses of the same owner. And the compensation is liable to be diminished—

(1) When the rental was enhanced by the use of the house for illegal purposes; or by its being dangerously or injuriously overcrowded;

(2) Where the sanitation or state of repair is defective;

(3) Where the house is unfit and not reasonably capable of being made fit for habitation.

If the local authority purchase the site, the provisions of the Lands Clauses Acts with respect to compulsory purchase of lands are to apply, as modified by this Act (see Lands Clauses Consolidation Act, 1845, sects. 16, *seq.*, &c.). When the obstructive building has been pulled down, the site, or such part thereof as may be required to be kept open for the purpose of remedying the nuisance or other evils caused by the obstructive building, is to be kept as an open space, and the local authority may, with the consent of the Home Secretary, and upon such terms as he thinks expedient, sell the rest of the site. But the local authority may, if they think fit, dedicate any land acquired by them under this section as a highway or other public place (sect. 38).

8 & 9 Vict.,  
c. 18.  
23 & 24 Vict.,  
c. 106.  
32 & 33 Vict.,  
c. 18.

By the Public Health (London) Act, 1891, sect. 14, the power to proceed in respect of nuisances (including buildings unfit for habitation) is extended to cases where the cause of the nuisance arises without the district. Sect. 39 gives to the local authority power to prepare and submit to the Local Government Board a scheme for the improvement of any area—

54 & 55 Vict.,  
c. 76.

(1) Which is the site of a house of which a demolished building under the Act forms part.

(2) Whereon there are buildings dangerous or prejudicial to health, but too small to be dealt with under Part I.; and the Local Government Board may sanction the scheme. But if an owner petitions the Board against it, and does not withdraw his petition, the order of the Local Government Board will be a provisional order, and will require the sanction of Parliament.

The “local authority” for the purposes of Part II. of the Act, is, in London, the Vestries and District Boards and the Woolwich Local Board respectively (Schedule I.), and will after the Act comes into operation be the metropolitan boroughs. The following provisions, however, must be observed—

(1) Under the conditions and provisions of sect. 49 of the Housing Act, the County Council, on default by the local authority, will become invested with their powers as to proceeding for a closing order, and as to the making of orders for demolition or pulling down and proceeding thereon, and will be entitled to be repaid their expenses and outgoings by the local authority.

53 & 54 Vict.,  
c. 70.

(2) The County Council have concurrent powers for taking



proceedings for and obtaining the confirmation of a scheme under Part II. (sect. 46, subs. 5). In this case the expenses of the scheme are to be borne by the county fund, but the Home Secretary has power, on the application of the County Council, to order the local authority to pay or contribute towards those expenses (sect. 46, subs. 6).

(3) Conversely, the County Council may pay, or contribute to the expenses of a scheme carried out by the local authority; and if, on application by the latter, the County Council refuse so to pay or contribute, the Home Secretary has power, if satisfied that the justice of the case requires it, to order them to make such payment or contribution (sect. 46, subs. 7). As to borrowing powers under this part of the Act, see Appendix E., p. 265.

Part III. (sects. 53 to 71) deals with Working Class Lodging Houses. Hitherto the "local authority" for the purposes of this part has been, in London, outside the city, the County Council; but under the Act the metropolitan boroughs will have (locally) concurrent powers to adopt this Part. The powers under this Part include power to acquire land (sect. 57), to lease, appropriate, or purchase existing working class lodging-houses, and to erect or convert buildings into lodging-houses (sects. 57-59); and to manage and regulate their lodging-houses (sects. 61-2 and Schedule VI.).

Part IV. (sects. 72 to 93) contains supplemental provisions.

The power to make bye-laws under sect. 23 of the Municipal Corporations Act, 1882, as applied by sect. 16 of the Local Government Act, 1888, has hitherto been confined to the County Council; under the Act, the like power is given to metropolitan boroughs, but only locally, and the bye-laws are not to be inconsistent with any bye-laws made by the County Council. The subject matter of these bye-laws is the "good rule and government" of the county or borough as the case may be, and the prevention and suppression of common law nuisances. See *Shillito v. Thompson*, L.R., 1 Q.B.D., 12.

(e) Most of these conditions have been referred to under their respective heads in the foregoing note, and their general effect is to localise the exercise of the several powers within the respective boroughs.

(f) By sect. 28, subs. 1, p. 131, the provisions of the Public Health Act, 1875, sects. 297, 298, are applied to Provisional Orders made under this Act. Sect. 297 lays down the manner in which, and the conditions under which, Provisional Orders are to be made, and provides that no Provisional Order is to be of any force until it is confirmed by Parliament.

When the Local Government Board has duly made a Provisional Order, that Board submit it to Parliament for confirmation; and the Act confirming one or a group of Provisional Orders is called a Provisional Orders Confirmation Act. Such an Act is a public general Act (P.H.A., 1875, sect. 297, subs. 8). See Appendix K., p. 285.

45 & 46 Vict.,  
c. 50.

38 & 39 Vict.,  
c. 55.

**6. Additional powers and duties of Borough Councils.**--(1) As from the appointed day (*a*) the power and duty of maintaining any main road (*b*) existing at the passing of this Act within a borough (*c*) shall be transferred to the borough council, and the road shall vest in the borough council, and shall cease to be a main road (*d*).

(2) When a highway in a borough is repairable by the London County Council by reason of its being the roadway or footway of a bridge (*e*), embankment (*f*), or otherwise (*g*), the borough council shall, if so required by the County Council, undertake the maintenance and repair thereof in consideration of such annual payment by the County Council as may from time to time be agreed on, or in default of agreement be finally determined by the Local Government Board (*h*), and for the purpose of the undertaking the borough council shall have the same powers, and be subject to the same duties and liabilities as if the highway were vested in them (*i*).

(3) The power of a borough council to close or stop up a street under Section 84 of the Metropolis Management Amendment Act, 1862, shall not require the sanction or allowance of the London County Council (*j*), provided that before closing or stopping any such street the borough council shall give notice to the councils of any contiguous boroughs (*k*). 25 & 26 Vict.,  
c. 102.

(4) It shall be the duty of each borough council to enforce within their borough the bye-laws and regulations (*l*) for the time being in force with respect to dairies and milk (*m*), and with respect to slaughter-houses (*n*), knackers' yards (*o*), and offensive businesses (*p*), and for the purpose of performing this duty the borough council shall in all cases have the same power of entry as they have in the case of slaughter-houses and knackers' yards, and if the council make default in performing this duty, the provisions of the Public Health (London) Act, 1891 (*q*), shall apply as if the default were a default under that Act. 54 & 55 Vict.,  
c. 76.

(5) A borough council may, with the consent of the Local Government Board, alienate any land for the time being vested in the council, and the proceeds of the sale



of any land sold by the council shall be applied in such manner as the Local Government Board sanction (*r*) towards the discharge of any loan of the council, or otherwise, for any purpose for which capital may be applied by the council.

(6) A borough council shall have the same powers of promoting and opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the borough, as are conferred on borough councils outside London by the Borough Funds Act, 1872 (*s*), and the provisions of that Act shall extend to the council of a metropolitan borough as if that council were included in the expression "governing body" and the borough were a district in that Act mentioned (*t*).

(a) See sect. 33 (*1*), p. 140.

(b) The principal statute now in force with respect to "main roads" is the Highways and Locomotives (Amendment) Act, 1878; the provisions of which with regard to main roads were amended by sect. 11 of the Local Government Act, 1888; and were by sect. 41, subs. (4), of the same Act, applied to the metropolis, with certain modifications.

There is no specific statutory definition of a "main road," nor perhaps is an exact definition, applicable generally, possible; but some guidance was intended to be given to highway authorities by the language of sect. 15 of the Highways and Locomotives Act, 1878. That section provides as follows:—"Where it appears to any highway authority that any highway within their district ought to become a main road *by reason of its being a medium of communication between great towns, or a thoroughfare to a railway station, or otherwise*, such highway authority may apply to the county authority for an order declaring such road . . . . to be a main road; and the county authority, if of opinion that there is probable cause for the application, shall cause the road to be inspected, and if satisfied that it ought to be a main road, shall make an order accordingly."

In the application of the foregoing section to London, under the Local Government Act, 1888, the expression "highway authority" meant, in the city, the Commissioners of Sewers (who, however, were abolished by the City of London Sewers Act, 1897—60 and 61 Vic., c. cxxxiii—their powers being transferred to the Common Council), and outside the City, the several vestries and district boards; and the expression "county authority" meant the London County Council (Local Government Act, 1888, sect. 41, subs. 4); compare the Highways and

35 & 36 Vict.,  
c. 91.

41 & 42 Vict.,  
c. 77.

51 & 52 Vict.,  
c. 41.



Locomotives Act, 1878, sect. 38 (which is the interpretation clause of that Act).

By sect. 11 of the Local Government Act, 1888, all main roads in a county (including the County of London) became wholly maintainable and repairable by the County Council; subject to the following provisions and modifications—

(1) A main road may be “dismained” (*i.e.*, reduced to the status of an ordinary highway, and so made maintainable by the “highway authority”)\* by a provisional order of the Local Government Board, in pursuance of an application by the County Council (Highways and Locomotives Act, 1878, sect. 16). Such provisional order, however, must be confirmed by Parliament (sect. 34).

(2) Any vestry or district board may, within a specified time, claim the right themselves to maintain and repair any main road within their district; in which case the County Council is only bound to make them “an annual payment towards the costs of the maintenance and repair, and reasonable improvement . . . of such road.” The amount of such payment, in the absence of agreement, is to be determined by arbitration of the Local Government Board (Local Government Act, 1888, sect. 11, subss. 2, 3).

In London, the policy of the Local Government Board, in cases falling under this paragraph, has been to make the County Council pay one-half of the expense as ascertained each year.

(3) The County Council and any vestry or district board may contract for the undertaking by the latter of the maintenance, &c., of any main road.

It may be added, that the County Council may, if they think fit, require a vestry or district board to undertake such maintenance, &c.; but in this case the County Council must pay the expenses: in the words of the Act (Local Government Act, 1888, sect. 11, subs. 4), “such undertaking shall be in consideration of such annual payment by the County Council for the costs of the undertaking as may from time to time be agreed upon, or in case of difference be determined by arbitration of the Local Government Board.”

In pursuance of the above-cited sect. 15 of the Highways and Locomotives Act, 1878, applications were made in the year 1889 to the London County Council by the several “highway authorities” in the county for orders declaring specified streets to be main roads. The length of roadway covered by the applications amounted to a total of over 400 miles; and it is obvious that had the applications been entertained, an enormous expense would have been entailed on the central rate for the maintenance and repair, improvement and enlargement of those

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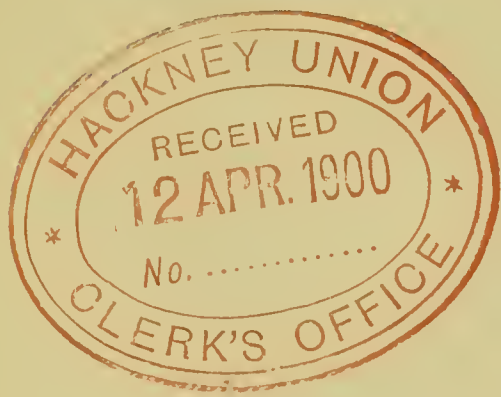
\* With power, nevertheless, to the county council to contribute, if they think fit, towards the cost of maintenance, repair, enlargement, or improvement of any such highway (Local Government Act, 1888, sect. 11, subs. (10).)

roads. The County Council, however, came to the conclusion that the provisions of sect. 11 of the Local Government Act, 1888, with regard to constituting highways as main roads, could hardly have been intended to apply to London; especially as London had participated to only a very insignificant extent, in comparison with the rest of the country, in the Exchequer grants which had been made by the Government to highway authorities in aid of the expense of maintenance of main roads.\* The County Council, therefore, rejected all the applications on the ground that they were not "of opinion that there was probable cause" for them. (Compare sect. 15 of the Highways and Locomotives Act, 1878.) In this conclusion they had the assent of the Local Government Board, with whom they conferred on the subject. Hence no main roads have been "declared" in London; and the only main roads in the metropolis are those mentioned in the next note (c), which will, on the appointed day, be reduced to the status of ordinary highways.

Of course, the *power* to declare highways to be main roads still subsists. So also does the power to contribute, under sect. 11, subs. 10, of the Local Government Act, 1888, which provides that "The County Council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road."

(c) The only "main roads" in the County of London are those which became such by virtue of sect. 13 of the Highways and Locomotives Act, 1878, which provides that "any road which has, within the period between the thirty-first day of December, one thousand eight hundred and seventy, and the date of the passing of this Act, ceased to be a turnpike road . . . shall be deemed to be a main road." The following is a list of the roads in London which were disturnpiked after 1870 (and which consequently became main roads when the foregoing provision was extended to London by sect. 41, subs. (4), of the Local Government Act, 1888), with their lengths and the Highway Authorities' districts and metropolitan boroughs in which they are situated:—

41 & 42 Vict.,  
c. 77.



\* In the financial year, 1887-8 (the year preceding the Local Government Act, 1888), London received under this head £3,559, while the rest of the country received £490,870.

| NAME OF ROAD.   | HIGHWAY AUTHORITY.           | METROPOLITAN BOROUGH. | LENGTH OF ROAD. |            |
|---|------------------------------|-----------------------|-----------------|------------|
|   |                              |                       | Miles.          | Furl. Yds. |
| Green Lanes, from parish boundary at Tottenham south-ward to parish boundary near Clissold Park ... } | Hackney Vestry ...           | Hackney ...           | 7               | 110        |
| Lea Bridge Road ...   | Do. ...                      | Do. ...               | 4               | 27         |
| Seven Sisters Road ...  | Do. ...                      | Do. ...               | 4               | 117        |
| Commercial Road East ...  | Limehouse Dist. Board ...    | Stepney ...           | 5               | 142        |
| East India Dock Road ...  | Do. ...                      | Do. ...               |                 | 200        |
| Horseferry (branch) Road ...  | Do. ...                      | Do. ...               | 1               | 18         |
| West India Dock Road ...  | Do. ...                      | Do. ...               | 1               | 165        |
| Commercial Road East ...  | Mile End Vestry ...          | Do. ...               | 4               | 92         |
| Commercial Road East ...  | St. George's East Vestry ... | Do. ...               | 3               | 86         |
| East India Dock Road ...  | Poplar District Board ...    | Poplar ...            | 1               | 2186       |
| West India Dock Road ...  | Do. ...                      | Do. ...               |                 | 169        |
| East and West Ferry Roads ...   | Do. ...                      | Do. ...               | 2               | 273        |
| Finchley Road ...   | Hampstead Vestry ...         | Hampstead ..          | 1               | 686        |
| Edgware Road ...  | Do. ...                      | Do. ...               | 7               | 0          |
| Harrow Road ...   | Kensington Vestry ...        | Kensington ...        | 2               | 68         |
| Archway Road ...  | Islington Vestry ...         | Islington ...         | 3               | 20         |
| TOTAL   |                              |                       | 11              | 219        |



(*d*) It seems obvious that these outlying roads, or most of them at all events, can only be regarded as "main roads" when compared with the far more important arterial thoroughfares of the metropolis, in a technical sense; and that they were so constituted in order to entitle the highway authorities to contributions by way of compensation for the loss of the turnpike revenues. Such contributions were made direct from the Exchequer until 1888; but on the passing of the Local Government Act, 1888, they were discontinued, and were made a charge on the county as we have seen in note (*b*). In substitution for these and other discontinued grants, however, London receives from the Exchequer, in common with the rest of the country, a share of the Local Taxation Licenses and Estate Duty (Local Government Act, 1888, sects. 20, 21, 22; and see Finance Act, 1894, sect. 19).

The amount of the Exchequer contribution to metropolitan highway authorities in respect of main roads was in the year 1887-8, £3,559. The following are the amounts of the grants made by the London County Council to the several highway authorities in respect of main roads for the financial years from 1890-1 to 1898-9, although in most years additional expenses of an incidental character were incurred:

|              |         |        |        |        |        |
|--------------|---------|--------|--------|--------|--------|
| Year         | 1890-1  | 1891-2 | 1892-3 | 1893-4 | 1894-5 |
| Total Grants | £ 68    | 1,847  | 8,489  | 12,094 | 9,885  |
| Year         | 1895-6  | 1896-7 | 1897-8 | 1898-9 |        |
| Total Grants | £ 6,343 | 6,784  | 10,388 | 7,042  |        |

This expenditure, it is inferred, will henceforth be saved to the County Council, and will fall upon the several boroughs concerned; subject, however, to the provisions of sect. 7, subs. (1) (*a*), p. 81.

(*c*) The London County Council has the duty of maintaining and repairing the bridges over the Thames (except Blackfriars, Southwark, London, and the Tower Bridges, which are maintainable by the Corporation of the City), and also various "county bridges." The bridges over the Thames passed to the County Council as the successors of the Metropolitan Board of Works, under sect. 40, subs. (8), of the Local Government Act, 1888, in whom they had become vested under various enactments.\* The county bridges passed to them by virtue of the general transfer clause of the Local Government Act, 1888, sect. 3 (viii.). Possibly the present provision will operate mainly in regard to the latter.

(*f*) The Thames Embankments are the Victoria (from Westminster Bridge to Blackfriars Bridge on the north bank), the Albert (in the parish of Lambeth, on the south

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\* Namely. the Metropolis Toll Bridges Act, 1877 (40 & 41 Vict., c. xcix.); the Metropolitan Board of Works (Various Powers) Act, 1886 (49 & 50 Vict., c. cxii.); and the London Parks and Works Act, 1887 (50 & 51 Vict., c. 34).

57 & 58 Vict.,  
c. 30.

51 & 52 Vict.,  
c. 41.

bank), and the Chelsea (on the north bank, between Chelsea Hospital and Battersea Bridge, with extension eastward along Grosvenor Road). They were all constructed by the Metropolitan Board of Works under powers conferred by various Acts of Parliament, some of which were public, and some private, Acts.\* The Victoria Embankment, however, is apparently the only one affected by this sub-section as regards the carriage-way, as in the case of the Chelsea and Albert Embankments the carriage-ways are maintained by the vestries; but the footways are maintained by the County Council. The annual cost of maintenance and repair of the embankments to the Council is nearly £10,000, of which at least four-fifths are spent on the Victoria Embankment.

(g) This would probably include the *approaches* to the Victoria Embankment, to the Blackwall Tunnel, &c., and possibly the roadways or footways abutting on and leading into open spaces vested in the Council, or roads and paths across them.

(h) The Local Government Board may at their option determine the question "as arbitrators or otherwise." See sect. 28, subs. (3), p. 131. They may, if they think fit, hold a local inquiry (sect. 28, subs. 2—*ibid.*).

(i) This would include rights of entry, breaking up, stopping from traffic, &c.; but only "for the purpose of the undertaking."

(j) Section 84 of the Metropolis Management Amendment Act, 1862, gave power to vestries and district boards to close or stop up streets, "with the previous sanction of the Metropolitan Board of Works," during such time as might be necessary for the execution of any paving, sewerage, or other works. It was only, however, when the thoroughfare, or any part of it, was *wholly* closed to vehicular traffic that the sanction was necessary. No sanction will now be required, the words in quotation marks being repealed—see Schedule III., p. 156.

(k) No corresponding notice to this has hitherto been required. It is presumed that notice need only be given to the councils or boroughs "contiguous" to the roadway which it is proposed to close or stop, or into whose districts it leads. The giving of such notice may lead from time to time to conjoint action (for example, where the road under repair runs from one borough to another), and so secure uniformity as well as economy, and a diminution in the interruption to traffic.

(l) This would seem to include any general orders or regulations made by the Local Government Board, or any bye-laws or

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\* These Acts are the following: 25 & 26 Vict., c. 93 (1862); 26 & 27 Vict., c. 75 (1863); 27 & 28 Vict., c. cxxxv. (1864); 31 & 32 Vict., c. cxi. (1868); 31 & 32 Vict., c. cxxxv. (1868); 33 & 34 Vict., c. xcii. (1870); 35 & 36 Vict., c. lxvi. (1872); 36 Vict., c. vii. (1873); and 36 & 37 Vict., c. 40 (1873), which last transfers to the Board from the Crown a portion of the land reclaimed from the river by the Victoria Embankment, to be maintained by the Board as a public garden.



regulations made by the London County Council or by the borough council where empowered to make them.

(*m*) See Public Health (London) Act, 1891, sect. 28. And see *ante* sect. 5, subs. (1), p. 64, and note (*b*) thereto.

(*n*) The sanitary authority (*i.e.*, under the Act, the borough council) has the duty, under the Public Health (London) Act, 1891, sect. 16, of making bye-laws for certain purposes connected with the proper keeping of slaughter-houses, and the County Council have power under sect. 19, subs. (4), of that Act, subject to appeal to the Local Government Board (subs. 6), to make bye-laws for regulating the conduct of the business of a slaughterer of cattle.

(*o*) Similar powers exist for these as with regard to slaughter-houses. And see Public Health (London) Act, 1891, sect. 20.

The right of the sanitary authority to enter upon slaughter-houses or knackers' yards is given by sect. 20, subs. (7). But the Metropolitan Cattle Market is expressly exempted by subs. (8). This market is under the control of the Corporation of the City Metropolitan Cattle Market Acts, 1851 (14 and 15 Vict., c. lxi.); 1857 (20 and 21 Vict., c. cxxxv.), and 1857 (38 Vict., c. xlvi.).

(*p*) The like provisions are made as to these in sects. 16, 17, 19, and 21 of the Public Health (London) Act, 1891.

(*q*) See note (*c*), *ante* sect. 5, p. 66.

(*r*) That is to say, the borough council will ask for the sanction of the Local Government Board to the application of the proceeds for specified purposes, and the Board may either give or withhold its sanction. But the money cannot be expended under the head of maintenance. This sub-section is modified by sect. 32, p. 140.

(*s*) Hitherto the vestries and district boards have had, as such, no power to promote Bills in Parliament, except for specific purposes through the medium of Provisional Orders. They have had power, however, to oppose Bills when the interest of their districts gave them a *locus standi*. London was expressly excluded from the Borough Funds Act, 1872, by sect. 11 of that Act.

35 & 36 Vict.,  
c. 91.

By sect. 2 of the Borough Funds Act, 1872, power is given to "governing bodies" (as defined by sect. 1) to promote or oppose any local and personal Bill or Bills in Parliament, and to apply the local public funds or rates to the payment of the costs and expenses attending the same. But the power to promote Bills for gas and water works to compete with existing gas or water companies with Parliamentary powers is excepted.

The power to promote Bills does not extend to any object which would be attainable by Provisional Order (sect. 10).

And the powers of promoting and opposing Bills given by the Act are subject to stringent regulation by sects. 4 to 7. These clauses require—

(1) A meeting of the "governing body" to be called after ten days' notice thereof has been given by newspaper advertisement.



(2) A resolution in favour of the promotion or opposition to be passed by an absolute majority of the whole governing body.

(3) The publication of such resolution twice by newspaper advertisement.

(4) The approval thereof by the Local Government Board in respect of matters within the jurisdiction of that Board, and of a Secretary of State in respect of other matters—power being given to any ratepayer to give notice in writing to the Board or Secretary of State objecting to such approval.

Further, in the case of a promotion of a Bill nothing beyond the deposit of the Bill can be done without—

(5) Confirmation by the like absolute majority at a second special meeting similarly convened;

(6) The consent of the owners and ratepayers by resolution passed at a meeting in the manner provided in the Local Government Act, 1858, sects. 12, 13. The provisions of the latter section give to any owner or ratepayer the right to demand a poll. 21 & 22 Vict.,  
c. 98.

The Local Government Board or Secretary of State have power to direct a local inquiry to be held (Borough Funds Act, 1872, sect. 7).

(1) By sect. 1 of the Borough Funds Act, 1872, the term “governing body” includes the council of any municipal borough, and the term “district” includes any such borough.

**7. Expenses incidental to transfer of powers or duties.**—(1) Where any power or duty is transferred (a) from the London County Council to a borough council, or from a borough council to the London County Council by or under (b) this Act, the borough council or the County Council, as the case may be, shall defray as part of their ordinary expenses (c) the expenses of and incidental to the power or duty, but the County Council shall contribute to the borough council, or the borough council to the County Council, in respect of those expenses, such amount, if any (whether capital or annual), and subject to such conditions, if any, as may—

(a) If the transfer is made by this Act (d) be agreed on between the councils within six months after the transfer, or in default of agreement be finally determined (e) by the Local Government Board; and

(b) If the transfer is made by a Provisional Order (f) be fixed by the Order.

Provided that every borough council shall have an

opportunity of making a representation to the Local Government Board as to the amount of any contribution under this section to another council, and if the amount is settled by agreement may, within three months from the date at which the agreement is notified to them (*g*), appeal against it to the Local Government Board, who may finally determine (*e*) the amount (*h*).

(2) Where the transfer is made by Provisional Order the amount of contribution from or to the County Council may be varied (*i*) in each case to meet the circumstances of the case.

(3) This section shall apply as if the Common Council of the City of London were the council of a metropolitan borough (*j*).

(*a*) See *ante* sect. 5, p. 64, and notes (*b*) and (*d*) to that section; see also sect. 6, subs. (1), p. 73, and notes (*b*) (*c*) (*d*) to that section.

(*b*) That is, either directly, as in sect. 5, subss. (1) (2); or by Provisional Order under sect. 5, subss. (3) (4), p. 64.

(*c*) In the event of any transfers being effected to the London County Council under subs. (3) or (4), questions may possibly arise, in particular cases, as to whether the consequent expenditure is chargeable to the General County Account or to the Special County Account. (See Local Government Act, 1888, sect. 68, and sect. 41, sub. 3).

(*d*) That is to say, under sect. 5, subss. (1) and (2), p. 64, and Schedule II., Part I., p. 149, and under sect. 6, subs. (1), p. 73.

(*e*) See sect. 28, subs. (3), p. 131.

(*f*) That is to say, under sect. 5, subs. (3) or (4), p. 64.

(*g*) There does not seem to be any provision in the Act requiring any such notification to be made.

(*h*) The power given by this sub-section to other borough councils to make a representation or appeal to the Local Government Board may be based—

(1) On the desirability of securing uniformity in parallel cases and of checking undue preferences;

(2) On the fact that, as all the boroughs contribute to the central rate, each is interested in seeing that that rate is not unduly augmented by the County Council either giving too much or receiving too little from any particular borough.

(*i*) The wording here is perhaps a little obscure. The amount and conditions (if any) must be fixed by the Provisional Order. Possibly the meaning of the expression “may be varied in each case” is that the Provisional Order may, instead of naming

one particular amount, specify several varying or alternative amounts, or fix a scale to suit different existing or hypothetical circumstances.

(j) The intention here is to apply the provisions of this section to any transfer effected under sect. 5, subs. (4), p. 64.

**8. Committees.**—(1) Every committee appointed by a borough council for the purpose of the Public Libraries Acts, 1892 and 1893 (*a*), may consist partly of persons not members (*b*) of the council.

55 & 56 Vict.,  
c. 53.  
56 & 57 Vict.  
c. 11.

(2) Every committee shall report their proceedings to the council, but, to the extent to which the council so direct, the acts and proceedings of the committee shall not require the approval of the council (*c*). Provided that a committee shall not raise money by loan or by rate, or spend any money beyond the sum allowed by the council (*d*).

(3) Every borough council shall from time to time appoint a finance committee for regulating and controlling the finance of the council (*e*); and no order for payment of any sum, whether on account of capital or income, shall be made by a borough council except in pursuance of a resolution of the council passed on the recommendation of the finance committee (*f*); and any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council, passed on an estimate submitted by the finance committee (*g*). The notice of the meeting at which any resolution for the payment of any sum by the borough council (otherwise than for ordinary periodical payments) or any resolution for incurring any costs, debt, or liability exceeding fifty pounds will be proposed, shall state the amount of the said sum, costs, debt, or liability, and the purpose for which they are to be paid or incurred (*h*). Provided that the foregoing provisions shall not apply to payments made in pursuance of a precept from another authority (*i*).

(4) Section fifty-seven of the Local Government Act, 1894 (*j*), which relates to joint committees, shall, with the substitution of the words Local Government Board for County Council therein, apply to borough councils as if they were district councils (*k*).

56 & 57 Vict.,  
c. 73



(a) See sect. 4, subss. (2) (4), p. 58, and notes (k) (l) (m) to that section. Instead of the Commissioners heretofore appointed to administer the Acts,\* the borough council will be the executive authority, but this sub-section contemplates that they will act through a committee, to whom (by subs. 2) they may either wholly or partly *delegate* their executive powers, requiring only a report of proceedings, or to whom they may merely *refer* the work, subject to their approval of the committee's recommendations.

(b) It may be inferred from this that no other committee can include persons who are not members of the council. The object of admitting non-members of the council upon the Libraries' committee is to give an opportunity for rendering that committee more specially adapted for its duties by having upon it select representatives of education, literature, science, or art. In like manner, the Technical Education Board (which is strictly a committee of the London County Council) has thirty-five members, of whom fifteen are not members of the Council. Of these fifteen, three represent the London School Board, two the Trustees of the City Parochial Foundation, three the City and Guilds of London Institute, three the London Trades Council, one the Incorporated Association of Head Masters, and one the National Union of Teachers; while the remaining two are co-opted by the Council.

It is suggested that under this provision a woman might be made a member of the Public Libraries Committee of a borough council, notwithstanding sect. 2, subs. (1), p. 52.

(c) Every borough council has a general power to appoint committees under sect. 58 of the Metropolis Management Act, 1855 (18 and 19 Vict., c. 120—see Appendix B. 3, and note 26 to that Appendix, p. 211). Unless the Council expressly “direct,” the committees will have no executive powers. But power is given by this sub-section to delegate any of the Council's functions (subject to the restrictions as to raising and spending money) to committees.

(d) A “spending committee” may have spending powers conferred on it in several ways. Probably the disbursement of ordinary periodical payments, such as wages, will be provided for by standing orders, while authority for special payments, as for works, improvements, surveys, etc., will be given in response to an application or recommendation from the committee. This authority will, of course, according to circumstances, follow upon recommendations or estimates of the finance committee, under sub-section (3).

(e) The Finance Committee will be the only *statutory* committee; that is, it is the only committee which the borough

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\* Under sect. 62 (1) of the Local Government Act, 1894 (56 and 57 Vict., c. 73), a vestry or district board might take over the duties of any Public Libraries Commissioners in their district.

council *must* appoint. A similar provision applies to County Councils under the Local Government Act, 1888, sect. 80, subs. (3). But the latter have other statutory committees.\* 51 & 52 Vict.,  
c. 41.

(f) Thus all accounts for payment, whether periodical or otherwise, will have to be passed on by the other committees or by the principal officers of the council to the finance committee for examination, previously to being ordered to be paid by resolution of the council. Where money has already been paid under "urgency" (and there is nothing in the sub-section which prohibits this) the amounts so paid must be vouched and the circumstances must be accounted for to the finance committee, in order that the latter may recommend the council to give their approval.

(g) The practice will probably be for the "spending committee" or officer to whose department the matter belongs, to send in the estimates to the finance committee, who, after examining the same, will submit them, with or without comment, to the council.

(h) This regulation is carried out by the Finance Committee of the London County Council by means of a "Weekly Cash Paper," which is issued along with the summonses to members to attend, and with the agenda paper. The latter always has a report of the Finance Committee, in which the Weekly Cash Paper is referred to. This paper sets out in detail the proposed payments and estimates, and also the payments made since the last report, and all receipts; and the balances.

(i) As from the London County Council, the London School Board, the Metropolitan Asylums Board. These precepts are based upon rateable value, and their payment is, of course, beyond the control of the borough council. The amounts are payable in advance; but if it turns out that the sum paid by any borough council is in excess of the amount justly leviable on its area (whether by reason of any assessments being reduced on appeal or otherwise) the excess must be refunded. Of course, there are other cases where a borough council will not be able to avoid payments and liabilities; for example, a refusal to pass a resolution to pay, or a refusal on the part of the Finance Committee to recommend the payment of a sum payable under a judgment of a Court of Justice, or under an award or order by the Local Government Board in pursuance of the Act, would not enable the council to avoid payment or execution. Compare sect. 9, subs. (1), p. 86.

(j) For this section see Appendix G., p. 278.

(k) In the country, the County Council has power to determine the proportions in which the expenses of a joint committee are to be borne by the constituent district councils, in case

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\* Namely, the Asylums Committee (Local Government Act, 1888, sect. 86, subs. (6)), the Standing Joint Committee (*ib.*, sect. 30), and the County Rate Committee (*ib.*, sect. 3, and County Rate Act, 1852—15 and 16 Vict., c. 81).



they do not agree (Local Government Act, 1894, sect. 57, subs. 4), but in London that power will be exercisable by the Local Government Board.

### 9. Payments to and by borough councils.—

(1) All payments to and by the borough council shall be made to and by the borough treasurer, and all payments by the council shall, unless made in pursuance of the specific requirement of an Act of Parliament, or of an order of a competent court, be made in pursuance of an order of the council (*a*), signed by three members of the finance committee present at the meeting of the council, and countersigned by the town clerk (*b*), and the same order may include several payments. Moreover, all cheques for payment of moneys issued in pursuance of any such order shall be countersigned by the town clerk or by a deputy (*c*) approved by the council (*d*).

(2) Any such order may be removed into the High Court of Justice by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing, with or without costs, according to the judgment and discretion of the court (*e*).

(*a*) It would seem that the “order of the council” here referred to will be sufficiently made by the “resolution” passed on the recommendation of the finance committee under sect. 8, subs. (3), p. 83, provided that that resolution be in the form “that the sums specified” [“in the recommendation,” *or*, “in the schedule referred to in the recommendation”] “be paid.”

(*b*) This includes the deputy town clerk when acting for the town clerk (see sect. 25, p. 125). The provision as to cheques is that they are to be *countersigned* by the town clerk; they will, it is presumed, be *signed* simply by the borough treasurer.

(*c*) This “deputy” need not be the deputy town clerk.

(*d*) Similar provisions with regard to payments by County Councils are contained in the Local Government Act, 1888, sect. 80.

(*e*) A similar provision applies to orders for payment by a county council under the Local Government Act, 1888, sect. 80, subs. (2), and by a municipal corporation under the Metropolitan Corporations Act, 1882, sect. 141, subs. (2). A simpler course, apparently, would be to contest the payment before the auditor, under sect. 14, p. 98.



RATES, OVERSEERS, AND AUDIT.

**10. Levy of rates.**—(1) A scheme (*a*) under this Act shall provide for all the expenses of a borough council being paid out of the general rate, and for the discontinuance of a separate sewers rate and separate lighting rate (*b*), but shall make provision for protecting the interests of owners and occupiers of any hereditament which is exempt from any rate or liable to be assessed thereto at a less amount than other hereditaments (*c*).

(2) After the appointed day (*d*) the general rate and the poor rate shall be assessed, made, and levied together by the borough council as one rate, which shall be termed the general rate, and shall be assessed, made, collected, and levied as if it were the poor rate, and all enactments applying or referring to the poor rate shall, subject to the provisions of this Act as to audit (*e*), be construed as applying or referring also to the general rate (*f*).

(3) Where a borough comprises more than one parish (*g*), the amount to be raised to meet the expenses of the borough council, or other sums payable as part of those expenses (*h*) shall, subject to any provision required for the adjustment of local burdens (*i*) be divided between the parishes in proportion to their rateable value (*j*).

(4) Where any of the adoptive Acts (*k*), or any local or other Act does not extend to the whole borough, any rate required to meet the expenses incurred under the Act shall, subject to the provisions of any scheme under this Act (*l*), be levied together with, and as an additional item of, the general rate over the area to which the Act extends (*m*).

(*a*) See sect. 15, subs. (1), p. 99, and sect. 16, subs. (1) (*a*), p. 102.

(*b*) Hitherto the rates have been collected under the four heads of poor, general, lighting and sewers rates. But the "poor rate" and the "general rate" include other rates. The former includes the county rate levied by the London County Council under the Local Government Act, 1888, sect. 68 (see 51 & 52 Vict., c. 41, 15-16 Vict., c. 81, sect. 26); it also includes the contributions to the Metropolitan Common Poor Fund, assessed by the Local Government Board under the Metropolitan Poor Act, 1867, 30 Vict., c. 6, sects. 61, 64, as amended by 34-5 Vict., c. 70 (1871), which substituted the Local Government Board for the Poor Law Board; the Asylums Board Rate, and the Metropolitan Police Rate, in

addition to the Poor Rate more strictly so called, which is levied by the Poor Law Guardians and Overseers of the Poor. And the "general rate" embraces not only the rate levied for the general expenses of the vestries and district boards, but also the London School Board rate. In those parishes where public libraries are established the Library Rate is, in nearly every instance, collected with the Poor Rate.

(c) See Introduction, sect. 7, p. 38.

(d) See sect. 33, subs. (1), p. 140.

(e) See sect. 14, p. 98, and note (b) to that section.

(f) The general effect of these two sub-sections will, presumably, be to combine all the rates leviable in any borough into one rate, to be called the general rate; so that only one demand note will be issued for the whole. The application of enactments referring to the poor rate to the general rate will justify the levying under the latter head of sums required under the head of poor rate. These include the expenses of guardians, metropolitan asylums managers, the county rate, and the rates under adoptive Acts; and also the police rate.

(g) See First Schedule, p. 146, and note (d) to sect. 1, p. 48.

(h) These will comprise expenses involved in the exercise of various duties or powers conferred by or under this Act, including the execution of the Adoptive Acts, the promotion of Bills in Parliament, the work of overseers, &c.

(i) This sub-section declares the parish to be, as heretofore, the unit of area for rating purposes. The general principle of the incidence of rating will be rateable value, but where this would press unfairly as between parishes included in the same borough, there is power by scheme to make adjustments. See sect. 16 (1) (d), p. 103, and note (g) to sect. 4, p. 59.

(j) The result of this provision will be, in the majority of cases where a borough comprises several parishes, differential rating among the parishes, the overseers, *i.e.*, the borough council, being the same for all.

(k) See note (k) to sect. 4, p. 62, also note (t), p. 63.

(l) Compare sect. 16, subs. (1) (d), p. 103.

(m) There may be some doubt as to the exact intention of this provision. Is it intended that the expenses referred to, though directly benefiting only part of the borough, are to be charged over the whole borough? For example, in the new metropolitan borough of Finsbury, a Library Rate is levied in Clerkenwell, but not in St. Luke; and there are many similar instances. (See Appendix F., pp. 276-7.) There are also many cases where special rates are levied for parish purposes or for purposes of parts of a parish under local Acts; such as garden and estate rates in various parts of St. Pancras, St. Marylebone, and elsewhere, church and rector's rates in parts only of the new boroughs of Holborn, Poplar, St. Olave, Bermondsey, Southwark, Stepney, and Westminster; the Plumstead Marsh rate, the Tower Hill rate, the Wimbledon and Putney Common rate, &c.



**11. Provisions as to overseers and collection of rates.**—(1) After the appointed day (*a*) the council of each borough shall be the overseers of every parish (*b*) within their borough, and shall appoint such officers (*c*) as may be required to assist in the transaction of the business, and shall defray the expenses of and incidental to the performance of the duties of overseers. Provided that the town clerk (*d*) of each borough shall have the powers and duties, and be subject to the liabilities of overseers with respect to the preparation of lists of voters (*e*) and of jury lists (*f*) in the borough, and any document required to be signed by overseers may (*g*) be signed by the town clerk (*d*).

(2) After the appointed day (*a*) every precept issued by any authority (*h*) in London for the purpose of obtaining money which is ultimately to be raised out of a rate within a borough, other than a precept sent to guardians by the Local Government Board (*i*), or by a body containing representatives elected by the guardians (*j*), shall be sent to the council, at their office, addressed to the council or to the town clerk. Any such precept, if so sent and addressed, shall be deemed to be personally served on the council, and shall be executed by them. "Precept" in this section includes any order, certificate, warrant, or other document of a like character, and the Local Government Board may settle the form of any precept as so defined.

(3) After the appointed day (*a*) all the rates collected in a metropolitan borough from any person by the council shall, so far as is practicable, be levied on one demand note (*k*), and the demand note shall be in a form approved by the Local Government Board, and shall state in manner provided in that form:—

- (*a*) the rateable value (*l*) of the premises in respect of which the rate is levied; and
- (*b*) the rate in the pound; and
- (*c*) the period for which the rate is made; and
- (*d*) the several purposes for which the rate is levied (*m*);  
and



(e) the approximate amount in the pound required for each purpose (n) (including, as far as is practicable, the proportionate amount of the estimated costs of, and loss in, collection); and

(f) any matter required by section 2 of the London (Equalisation of Rates) Act, 1894 (o), or any other enactment, to be stated in the demand note.

(a) Sect. 33, subs. (1), p. 140.

(b) This must be taken with the proviso in the next sentence. Except, therefore, as regards the preparation of the lists of voters and the jury lists, there will henceforth be no *ex-officio*, or appointed, or individual overseers in the metropolis outside of the city. Compare sect. 23, subs. (3), p. 120.

(c) For example, assistant overseers, valuers, clerks, rate-collectors, &c.

(d) Or deputy town clerk, in the circumstances provided for by sect. 25, p. 125.

(e) The preparation and signing and printing of these lists for the year 1900 will be provided for by Order in Council—see sect. 27, subs. (3), p. 128. In subsequent years they must be prepared and signed by the town clerk before the 20th of October, so as to come into force on the 1st of November—see sect. 3, subs. (4), p. 57.

(f) The general enactments relating to the qualification and liability to serve on juries, and also to exemptions, and to the preparation of jury lists by overseers, &c., are the County Juries Act, 1825; the Juries Act, 1862; and the Juries Act, 1870.

(g) This does not mean that the town clerk has any discretion to sign or not to sign; he is bound by the prior words of the sub-section to sign the lists. The meaning of “may” presumably is that the signature of the town clerk will give the lists the same validity as that of the churchwardens and overseers before the Act.

(h) Namely, by the London County Council, the Commissioners of Police, or the London School Board. Hitherto, the London County Council have directed their precepts to the Guardians of the Poor of the several parishes or unions, the Commissioners of Police have sent theirs to the overseers, and the London School Board theirs to the Vestries and District Boards. All these precepts will now be issued direct to the borough councils. The City of London, however, is not affected by these provisions, and there the precept of the County Council will continue to be served upon the Guardians of the City of London Union. The Metropolitan Police Rate is not levied in the city. The School Board precept will, as hitherto, be sent to the Common Council.

(i) This refers to the Metropolitan Common Poor Fund, which is administered by the Local Government Board, under the provisions of the Metropolitan Poor Act, 1867, as amended by <sup>30 Vict., c. 6.</sup> the Act of 1871—34-5 Vict., c. 70. The object of the fund is to effect an equal distribution over the metropolis of a number of the expenses involved in poor relief (sect. 69). These expenses are ascertained from the audited accounts of the guardians of each parish or union, and the fund for meeting them is raised by a general rate, assessed by the Local Government Board, the amount of which, payable by each parish or union, is based on rateable value. The result, of course, is that the richer (*i.e.*, the more highly assessed) parishes pay more than they receive, and *vice versa*. In 1896-7, the gross amount charged to the fund was £1,261,800, equal to a general rate of 8.45d. in the £.

(j) The principal body answering to this description is the Metropolitan Asylums Board. The Board owes its origin to the Metropolitan Poor Act, 1867. The present number of its members is 73, of whom 18 are nominated by the Local Government Board under sect. 11 and sect. 12 of that Act, and the remaining 55 are elected by the guardians of the several unions and parishes under sect. 10. The precepts of the Board will continue to be sent to the several constituent Boards of Guardians. The managers of the School Districts, and of the Sick Asylum Districts, are also elected by Guardians.

(k) The demand note is the paper issued to the several rate-payers by the body charged with the *collection* of the particular rate. This body will now, in all cases, be the borough council. Hitherto, in many districts two or more demand notes have been issued, and considerable variation has existed in the forms adopted in different districts. The Act does not necessarily require identity of form even now, so long as the prescribed particulars are given and the form is approved by the Local Government Board. It appears, however, to be contemplated that that Board will settle a general form, to be followed subject to any variations of detail required by local or other circumstances.

The following is an example of Demand Note, giving the particulars referred to in the sub-section:—

## LONDON GOVERNMENT ACT, 1899.

SECTS. 10, 11.

*Metropolitan Borough of*

ASSESSMENT NO.

DEMAND NOTE for

GENERAL RATE for the  $\frac{1^{\text{st}}}{2^{\text{nd}}}$  half of the financial year  
190 - 190 .

To meet Expenditure to be incurred from  
1st April to 30th September, 190 . }  
1st October, 190 to 31st March, 190 . }

*To Mr.*

The Council, as Overseers of the said Borough, demand payment of the General Rate made the                      day of  
190 , and of the arrears of former rates, now due from you in respect of  
(*here state the premises rated*), of which the following are the particulars :—

| Rateable Value, £   |         |         |  |
|---|---------|---------|--|
| Rate in the Pound, and Amount due—  |         |         |  |
|   | £ s. d. | £ s. d. |  |
| (a) On Buildings and other Hereditaments not being Agricultural Land,<br>s. d. in the £ ...         |         |         |  |
| (b) On Agricultural Land,<br>s. d. in the £ ...   |         |         |  |
| (c) On ( <i>any other rateable property entitled to a differential rate</i> )<br>s. d. in the £ ... |         |         |  |
| Arrears ...   |         |         |  |
|   | £       |         |  |
| Less—Allowance to Owner under the Poor Rate Assessment and Collection Act, 1869 ...                 | £       |         |  |
| TOTAL ...   | £       |         |  |

(*Insert here the Rate Collector's Name and Address, and any other information for the guidance of the Ratepayer in the matter of payment.*)



*Form of Demand Note (continued).*

PARTICULARS OF ESTIMATED CHARGES FOR THE

SIX MONTHS ENDING      30TH SEPT., 190 . }  
    31ST MARCH, 190 . }

| Purposes for which the Rate is Levied.  | Estimated<br>Amounts<br>required. | Approximate<br>Rate in the £. |                   | <i>Less</i><br>Estimated<br>Proportion-<br>ate Costs of<br>and Loss in<br>Collection. |
|---|-----------------------------------|-------------------------------|-------------------|---|
|   | £                                 | s.                            | d.                | d.  |
| Maintenance, cleansing and water-<br>ing streets, public health, removal<br>of house refuse, open spaces,<br>improvements <sup>(a)</sup> ... ..   |                                   |                               |                   |   |
| Public lighting ... ..  |                                   |                               |                   |   |
| Local sewers ... ..   |                                   |                               |                   |   |
| Adoptive Acts, viz.—  |                                   |                               |                   |   |
| Library ... ..  |                                   |                               |                   |   |
| Baths and wash-houses ...   |                                   |                               |                   |   |
| Burial-grounds, &c. ... ..  |                                   |                               |                   |   |
| Salaries and wages of Council<br>officials, &c. <sup>(b)</sup><br><i>(Here add any expenditure to be<br/>    incurred during the period in<br/>    respect of valuations, registra-<br/>    tion, election expenses, &amp;c.)</i> |                                   |                               |                   |   |
| Rent, printing, stationery, postage,<br>&c. ... ..  |                                   |                               |                   |   |
| Parliamentary expenses ... ..   |                                   |                               |                   |   |
| Legal proceedings and law charges   |                                   |                               |                   |   |
| Expenditure by the Board of<br>Guardians <sup>(c)</sup> ... ..  |                                   |                               |                   |   |
| Ditto, for rent, printing, stationery,<br>postage, &c. ... ..   |                                   |                               |                   |   |
| Ditto, for salaries ... ..  |                                   |                               |                   |   |
| County Rate ... ..  |                                   |                               |                   |   |
| Police Rate ... ..  |                                   |                               |                   |   |
| London School Board Rate ...  |                                   |                               |                   |   |
| Total ... £   |                                   | s.                            | d. <sup>(d)</sup> | d.  |

(Signed)

(a) This item includes the sum of £ payable to (*The London County Council*) for interest on, and instalments of principal of, outstanding loans. (It also includes £ expenditure under the Housing of the Working Classes Act, 1890.)

(c) This item is made up as follows :

(d) Allowance is made for half-rates on Agricultural Land, deductions to owners, &c.

(m) *E.g.*, relief of poor, lighting, library, School Board, etc.

(n) That is, against each purpose, should be stated the rate in the pound attributable to that purpose.

(o) The London (Equalization of Rates) Act, 1894, sect. 2, <sup>57 & 58 Vict., c. 53.</sup> provides as follows :—"The Local Government Board shall, by order, prescribe the forms of contribution orders, precepts, demand notes and receipts, so far as seems to the Board to be necessary for stating therein as a separate item any equalization charge, and any credit in respect of a receipt under this Act which affects the sum named therein." The Local Government Board accordingly issued an order (No. 737 of 1894) prescribing the form of precept for the county rate to be issued by the London County Council to guardians and overseers in cases where any equalization charge is included. To the precept is appended a schedule showing the amount payable to, and the grant receivable from, the Equalization Fund, and the balance obtained by subtracting the smaller of these amounts from the larger.

A further order (No. 475 of 1895), addressed to the Guardians of the Poor and Overseers of the Poor, and the several sanitary authorities, prescribes the forms of contribution orders, demand notes, and receipts under the Equalization Act. The amounts of the contributions to, and grants from, the fund are to be separately stated in the contribution orders, and the effect on the rate is to be stated in the demand notes. As to the operation of the Equalization Act, see note (d) to sect. 31, p. 138.

## 12. Incidence of sewers rate or its equivalent.

As between landlord and tenant every tenant who, if this Act had not been passed, would have been entitled to deduct against, or to be repaid by, his landlord, any sum paid by the tenant on account of the sewers rate, shall in like manner be entitled to deduct against, or to be repaid by, his landlord such portion of the general rate as represents the sewers rate (a).

(a) This section practically re-enacts sect. 169 of the Metropolis Management Act, 1855, which the present Act repeals. See Schedule III., p. 155.

A sewers rate is a landlord's rate, and consequently the tenant has a right, in the absence of an agreement to the contrary, to deduct it from his rent. See *Smith v. Humble*, 15 C.B., 321. An important modification in the incidence of this rate seems to have been made, probably by inadvertence, by the Local Government Act, 1888, sect. 68. That section established one county rate to be levied by the County Council in respect of all expenses, including sewers. It thus superseded the Metropolitan Consolidated Rate, previously leviable by the Metropolitan Board of Works under their Act of 1869, sect. 22. A portion of the latter rate, however, was levied as a sewers



rate. Hence, as the Local Government Act, 1888, contained no such saving clause as the present, the incidence of that portion was changed from the owner to the occupier, when the contract of tenancy did not impose it on the latter.

**13. Assessment Committees.** Where the whole of a poor law union is within one borough (*a*), the Assessment Committee (*b*) shall, notwithstanding anything in Section 5 of the Valuation (Metropolis) Act, 1869 (*c*), be appointed by the borough council, instead of by the board of guardians, and where the borough comprises the whole of two or more unions (*d*), the council shall appoint only one assessment committee for those unions, and where the council appoint the assessment committee the town clerk shall act as the clerk to that committee (*e*).

(*a*) This, of course, includes single parishes not in union which are made boroughs. See *infra*, note (*e*).

(*b*) The general functions and duties of Assessment Committees in unions formed under the Poor Law Amendment Act, 1834, are contained in the Union Assessment Committee Act, 1862, as amended by the Amending Act, 1864. These Acts are incorporated, with amendments and adaptations, with the Valuation (Metropolis) Act, 1869. By sect. 6 of this last Act the overseers (who will, under the present Act, be the borough council—sect. 11, subs. (1), p. 89) are to make and sign the annual valuation lists. The lists are to be revised by the assessment committee, who have power—

(1) To make alterations therein by raising or lowering valuations, or by inserting therein any rateable hereditament omitted therefrom, or by correcting names, descriptions, and particulars.

(2) To hear and determine objections, subject to appeal to Special Sessions or to Quarter Sessions.\*

(*c*) In general, under the principal Act (*i.e.*, the Union Assessment Committee Act, 1862, sect. 2) the Assessment Committee is appointed by the guardians. But sect. 5 of the Valuation (Metropolis) Act, 1869, provided for the appointment of Assessment Committees in parishes where no such committees existed. The appointment was placed, according to the circumstances mentioned in that section, in the hands of the guardians or of the parish vestry. The present enactment overrides these provisions in all cases where the whole union is within one borough. See *infra*, note (*e*).

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\* Under the Valuation (Metropolis) Act 1869, sects. 23, *seq.*, this last appeal lay to a court of general assessment sessions, but for this court was substituted the court of quarter sessions for the County of London by the Local Government Act, 1888, sect. 42, subs. (10).

32 & 33 Vict.,  
c. 67.

4 & 5 W. IV.,  
c. 76.  
25 & 26 Vict.,  
c. 103.  
27 & 28 Vict.,  
c. 39.

32 & 33 Vict.,  
c. 67.

(d) The only borough which clearly answers this description is that of Westminster, which comprises the whole of the unions of St. George, Strand, and Westminster. A very small adjustment of the boundaries of Whitechapel parish, however, will make it apply to the borough of Stepney, comprising the unions of Whitechapel and Stepney, and the parishes not in union of Mile End and St. George's-in-the-East.

(e) The effect of this section, subject to anything which may be done with regard to detached parts of parishes or otherwise, will probably be as follows:—

(1) In the following boroughs, which are single parishes not in union, the Assessment Committee will be appointed by the borough council:—

|                      |              |                 |
|----------------------|--------------|-----------------|
| Camberwell.          | Hammersmith. | Paddington.     |
| Chelsea              | Hampstead.   | St. Marylebone. |
| (subject to arrange- | Islington.   | St. Pancras.    |
| ments as to Kensal   | Kensington.  | Shoreditch.     |
| Town)                | Lambeth.     | Bethnal Green.  |
| Fulham.              |              |                 |

(2) So also in the following boroughs, each of which comprises the whole of a Poor Law Union, the Assessment Committee will be appointed by the council:—

Southwark, embracing St. Saviour's Union.

Bermondsey, embracing St. Olave's Union.

Poplar, embracing Poplar Union.

(3) The council will likewise appoint the Assessment Committee in the city of Westminster, and probably in Stepney—see note (d) *supra*—and there will in each case be but one Assessment Committee for the whole borough.

(4) In the following boroughs the Assessment Committee will continue to be appointed by guardians:—

Battersea: Committee appointed by the guardians of the Wandsworth and Clapham Union.

Wandsworth: Committee appointed by the guardians of the Wandsworth and Clapham Union.

Deptford and Greenwich: Committee appointed by the guardians of the Greenwich Union as to the parishes of Greenwich and St. Nicholas, and by those of Woolwich Union as to Charlton and Kidbrooke.

Woolwich: Committee appointed by the guardians of Woolwich Union, except for Eltham, who will be appointed by the guardians of the Lewisham Union.

Hackney: Committee appointed by the guardians of Hackney Union.

Stoke Newington: Committee appointed by the guardians of Hackney Union; but as to South Hornsey, the guardians of the Edmonton Union.

Lewisham: Committee appointed by the guardians of Lewisham Union.



Finsbury and Holborn: Committee appointed by the guardians of Holborn Union, except that for St. Giles', the borough council of Holborn will appoint.

**14. Audit of Accounts.**—After the appointed day (a) the accounts of the council of every metropolitan borough, and of any committee appointed by the council, and of their officers, including the accounts relating to the making, levy, and collection of any rate made by the council shall be made up and audited in like manner, and subject to the same provision as the accounts of the London County Council (b), and the enactments relating to the audit of those accounts, and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply accordingly.

(a) Sect. 33, subs. (1), p. 140.

(b) The enactments relating to the making up and audit of the County Council accounts are contained in sects. 71 and 73 of the Local Government Act, 1888, and in the enactments there referred to.\* The following is a summary of their effect in the metropolitan borough councils:—

The accounts of receipts and expenditure are to be made up by each council to the end of the financial year: namely, to the 31st March (Local Government Act, 1888, sect. 73, subs. 1); and are to be in the form prescribed by the Local Government Board.

A return of these accounts and of the accounts of the borough treasurer and other officers, with a printed copy of the abstract thereof, must be made by the town clerk to the Local Government Board; failure to make any such return subjects the town clerk to a fine not exceeding £20 for each offence.

The accounts will be audited by district auditors, appointed by the Local Government Board. Before the audit, the council must give public notice thereof by newspaper advertisement, and give access to all persons interested to a copy thereof and to the rate books, account books, vouchers, receipts, etc., at the office of the Council. All ratepayers and owners have the right to be present at the audit, and to make objections; and they have the right to appeal either to the Queen's Bench

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\* Namely, the Municipal Corporations Act, 1882, sects. 26, 27, and 28, and sect. 233, subss. (3), (4), (6), (7); the Public Health Act, 1875, sect. 247 (except part of subs. (1) and subs. (2) which are repealed), and sect. 250; the District Auditors Act, 1879; the Poor Law Amendment Act, 1844, sects. 35 and 36; the Poor Law Audit Act, 1848, sect. 4; and the Divided Parishes and Poor Law Amendment Act, 1876, sect. 38.



Division by *certiorari*, or to the Local Government Board against allowances or disallowances by the auditor.

The auditor must disallow and surcharge every item of account contrary to law;\* and must charge against every person by whose negligence or misconduct any deficiency or loss has been incurred the amount of such loss.

After the completion of the audit, the auditor is to send in his report on the accounts to the town clerk, who is to publish an abstract of the accounts in one or more local newspapers.

The salaries and expenses of district auditors are paid by the Treasury, but are contributed to by the authorities whose accounts are audited by them by means of a stamp duty, varying with the total expenditure† comprised in the financial statement submitted to the auditor. The duty is levied by a stamp on the auditor's certificate.

## ORDERS AND SCHEMES.

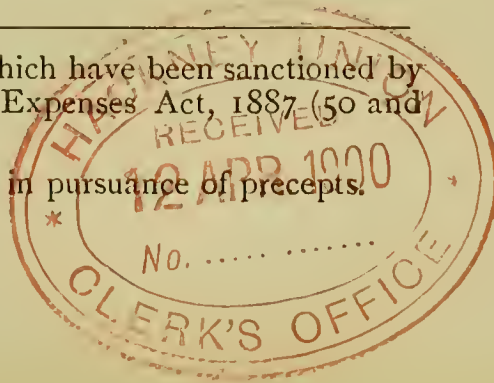
**15. Appointment of Commissioners and preparation of orders and schemes.**—(1) It shall be lawful for Her Majesty in Council to refer to a Committee of the Privy Council the appointment of Commissioners to prepare such Orders and schemes (*a*) as are required for carrying this Act into effect, and the Committee may settle the Orders and schemes so prepared, and may employ such persons as they may deem necessary for the purposes of this Act.

(2) Before any Order in Council forming an area into a borough is made under this Act (*b*), the draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and if either of those Houses, before the expiration of those thirty days, presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft Order.

(3) The Commissioners shall, for the execution of their duties under this Act, have the like powers as inspectors of the Local Government Board (*c*).

\* The auditor must not disallow any expenses which have been sanctioned by the Local Government Board (Local Authorities Expenses Act, 1887 (50 and 51 Vict., c. 72), sect. 3).

† Exclusive of amounts paid to other authorities in pursuance of precepts.



(4) Any expenses incurred by the Committee under this Act shall, to the amount certified by the Treasury, be paid by the London County Council out of the County Fund (*d*) (*e*).

(*a*) *Orders in Council* under the Act may be made—

1.—For the formation of areas into boroughs (sect. 1, p. 47).

2.—For fixing the number of councillors and the number and boundaries of the wards, and for assigning the number of councillors to each ward (sect. 2, subs. (2), p. 52). Power, however, is given to the Local Government Board, under the provisions of sect. 26, p. 126, to alter the number or boundaries of wards, or the apportionment of members among the wards. But not, apparently, to alter the total number of councillors.

3.—For dividing a parish or place into parts (sect. 17, subs. (2), p. 112).

4.—For dealing with detached parts of parishes (sect. 18, p. 113).

5.—For taking into the county of London and into a metropolitan borough an urban district from an adjoining county (sect. 18, subs. (3), p. 113).

6.—For dealing with Penge (sect. 20, p. 117), and

7.—With Kensington Palace (sect. 21, p. 119).

8.—For naming the boroughs and arranging for the first meetings of the councils, and for the retirement of the first aldermen and councillors (sect. 27, subs. (1), p. 127). But as to the councillors, provision is made by sec. 2, subs. (8), p. 53, whereby it will be possible for them all to retire together every third year.

9.—For applying and adapting the laws relating to registration of electors to the provisions of the Act (sect. 27, subs. (2), p. 128).

10.—For making up the register for the year 1900 (sect. 27, subs. (3), p. 128). In subsequent years it will be made up by the Town Clerk, under sect. 3, subs. (4), p. 57.

*Schemes* under the Act may be made—

1.—For carrying into effect any Order in Council or other provision of the Act (sect. 16, subs. (1) (*h*), p. 103).

2.—For transferring the powers, duties, property and liabilities of commissioners or boards administering adoptive Acts to the borough council (sect. 4, subs. (2), p. 58).

3.—For providing for the exercise of any powers relating to some particular parish or district, or part of a parish or district, in a borough (sect. 4, subs. (3), p. 58).

4.—For abolishing separate sewers rates and lighting rates and providing for all expenses being paid out of the general rate (sect. 10, subs. (1), p. 87).

5.—For applying, so far as consistent with the Act, the provisions of Part XI. of the Municipal Corporations Act, 1882 (except



with regard to police), upon a petition for a charter of incorporation. (See sect. 16, subs. (1) (*b*), note (*c*), p. 104).

6.—For anything which may be done with respect to a parish by order under sect. 57 of the Local Government Act, 1888. (See sect. 16, subs. (1) (*c*), note (*d*), p. 106.)

7.—For anything which may be done under sect. 33 of the Local Government Act, 1894. (See sect. 16, subs. (1) (*c*), note (*e*), p. 106.)

8.—For making adjustments to prevent the unjust incidence of rates or payments, and to secure the efficient maintenance of libraries, baths and wash-houses, sect. 16, subs. (1) (*d*), p. 103.

9.—For dealing with rights and immunities attaching to Crown or Government property (sect. 16, subs. (1) (*e*), p. 103).

10.—For adjusting the boundaries of school board electoral divisions to any alteration made in the area of the County of London (sect. 16, subs. (1) (*f*), p. 103).

11.—For repealing or modifying local Acts (sect. 16, subs. (1) (*g*), p. 103). Compare sect. 4, subs. (1) and (3), pp. 57, 58; sect. 10, subs. (4), p. 87; and the definition of "Local Act," sect. 34, p. 142.

12.—For assimilating Woolwich to the other Metropolitan boroughs (sect. 19, p. 116).

13.—For apportioning and transferring property and liabilities in Penge, and for other adjustments and applications consequent on any Order in Council made with respect to it (sect. 20, subs. (2), p. 117).

14.—For vesting in the inhabitants of a parish or ecclesiastical district powers and duties of a vestry, relating to the affairs of the Church, and for vesting in the Incumbent or Churchwardens interests in church property; and for providing for the collection of church or Incumbent's rates by the Churchwardens or other officers (sect. 23, subs. (1), p. 120).

15.—For substituting nominees of the council for overseers as trustees of charities (sect. 23, subs. 4, p. 120).

16.—For making arrangements for the transfer of and compensation to existing officers (sect. 30, subs. (4), p. 135).

(*b*) That is to say, under sect. 1, p. 47.

(*c*) The general powers of inspectors of the Local Government Board are given in sect. 21 of the Poor Law Board Act, 1847, but are applicable not merely to the subject matter of that Act, but also to all cases of inspections and local inquiries under the Local Government Board. The Poor Law Board was abolished in 1871, and its powers and duties were transferred to the Local Government Board, which was established by the Local Government Board Act, 1871. The same Act transferred to the new Board various powers previously exercised by the Home Secretary and by the Privy Council; and subsequent Acts have given various further powers. The exercise of many of these powers involves the holding of local inquiries by inspectors of the Board. The inspectors have full power to summon before

10 & 11 Vict.,  
c. 109.

34 & 35 Vict.,  
c. 70.



them such persons as they may think necessary for the purpose of giving evidence or information, or for producing or verifying documents; to administer oaths or require declarations to be subscribed, and to do or require any consequential things needed for the purposes of the inquiry. By sect. 26 of the Poor Law Board Act, 1847, the giving of false evidence in an inquiry is perjury; and disobedience to a summons, refusal to give evidence or to produce documents, or the alteration, concealment, or suppression of any documents is a misdemeanour.

(*d*) The County Fund is the fund of the County Council into which all receipts are paid, and out of which all payments are made. It is kept in separate accounts, called respectively the General County Account and the Special County Accounts. (See Local Government Act, 1888, sect. 68). The General County Account is liable to be contributed to by all parishes in the administrative county; a special county account is liable to be contributed to only by those parishes which are assessable to contribute to the special county purposes chargeable to the particular account. In London there is only one special county account, which arises from the fact that for certain expenses the parishes in the City are not liable to contribute (see Local Government Act, 1888, sect. 41, subs. (3)). It is not, perhaps, quite clear whether the expenses of the Committee referred to in the present sub-section are to be treated as "general county purposes" or not; if they are, they will come upon the general county account, and will be contributed to by the city parishes, in common with the rest of the administrative county.

(*e*) The Commissioners appointed under this sub-section are—Sir Hugh Owen, Mr. A. T. Lawrence, Q.C., Sir Samuel Johnson, Town Clerk of Nottingham.

The Committee of Council are—The Lord President (the Duke of Devonshire); the Home Secretary (Sir M. White Ridley); the President of the Local Government Board (the Right Hon. H. Chaplin); Lord James of Hereford; the Right Hon. C. T. Ritchie, M.P.; Mr. T. L. Wharton, M.P., and Mr. E. R. Wodehouse, M.P.

**16. Provisions to be made by scheme.**—(1) A scheme under this Act (*a*) may make provision:—

(*a*) for any matters which under this Act are to be regulated by scheme (*b*); and

(*b*) for any of the purposes, except police, for which a scheme may be made under Part Eleven of the Municipal Corporations Act, 1882 (*c*), so far as those purposes are consistent with this Act; and

(*c*) for anything which may be done with respect to a parish under Section Fifty-seven of the Local

- Government Act, 1888 (*d*), or may be done under 51 & 52 Vict., c. 41.  
 Section Thirty-three of the Local Government 56 & 57 Vict., c. 73.  
 Act, 1894 (*e*), so, however, that parishes in different unions shall not be united except with the approval of the Local Government Board (*f*); and  
 (*d*) for such adjustments as may be required for carrying into effect any of the provisions of this Act, or for preventing any injustice with respect to the incidence of any rate or the discharge of any liability or otherwise (*g*), and in particular for such adjustments as may be required for the efficient maintenance of any libraries, baths, or wash-houses which have been maintained (*h*) under the provisions of any of the adoptive Acts; and  
 (*e*) for preserving, so far as may appear necessary or expedient, any right, power, exemption, or immunity heretofore exercised or enjoyed in respect of property belonging to or occupied by the Crown or any Government department (*i*); and  
 (*f*) for making such alterations in the boundaries of the electoral divisions for the purpose of School Board elections as may be rendered necessary by any alteration in the area of the County of London (*j*); and  
 (*g*) for repealing or modifying any local Act (*k*) other than the London Building Act, 1894; and  
 (*h*) for carrying into effect this Act or any Order in Council (*l*) made thereunder; 57 & 58 Vict., c. ccxiii.  
 and may contain any incidental, consequential, or supplemental provisions which may appear to be necessary or proper for the purposes of the scheme.

(2) In making adjustments by a scheme under this section, regard shall be had (*m*) to any composition, contribution, or exemption, whether statutory or otherwise, which has heretofore existed in regard to any portion of any area dealt with under the scheme.

(3) The provisions of the Municipal Corporations Act, 45 & 46 Vict., c. 50.

48 & 49 Vict.,  
c. 38.

1882, as amended by the School Boards Act, 1885, with respect to a scheme under Part Eleven of the first-mentioned Act (*n*), shall apply in the case of any scheme under this Act, with the necessary modifications (*o*), and any governors or trustees of the poor or other similar body under a local Act shall be deemed, but the London County Council shall not be deemed, to be a local authority (*p*) within the meaning of those provisions. There shall also be deemed to be local authorities within the meaning of the said provisions:—

(*a*) The mayor, commonalty, and citizens, and the Court of Aldermen of the City of London, so far as relates to any powers exerciseable by them or by officers appointed by them respectively within the ancient Borough of Southwark (*q*); and

(*b*) the Dean and Chapter of the Collegiate Church of St. Peter, Westminster, so far as relates to any powers of local government exerciseable by them or their officers within the borough of Westminster (*r*) and the Court of Burgesses of the ancient city of Westminster (*s*).

(4) Provided that notification in the "London Gazette," and in such other manner as the Committee of Council may direct (*t*) of a draft scheme having been prepared, or of a scheme having been settled, and of the place where copies of it can be inspected and obtained, shall be substituted for publication of the draft scheme or scheme in the "London Gazette," or in the manner required by the seventh schedule (*u*) to the Municipal Corporations Act, 1882.

45 & 46 Vict.,  
c. 50.

(*a*) Sect. 15, subs. (1), p. 99, gives the general parliamentary authority to frame schemes, and the present section specifies their subject matters.

(*b*) These are enumerated in note (*a*) to sect. 15, p. 100.

45 & 46 Vict.,  
c. 50.

48 & 49 Vict.,  
c. 38.

(*c*) Part XI. of the Municipal Corporations Act, 1882 ("Grant of Charters") includes sects. 210 to 218 of that Act. It was amended by the School Boards Act, 1885. The manner in which these enactments are here applied (and with this provision must of course be read subs. (3) of this section) is somewhat obscure. The object of Part XI. was, in case of the creation of new municipal boroughs by Royal Charter, the application to such boroughs of the provisions of the Municipal



Corporations Acts. The actual creation of a borough is a matter of royal prerogative, but the application to boroughs of provisions for their good government (including the constitution and election of the Council, the investment and management of property, the performance of powers and duties, rating, police, &c.), depends upon statute. The first general Act for regulating Municipal Corporations in England and Wales was the Municipal Corporations Act, 1835. That Act, however, having been <sup>5 & 6 W. IV., c. 76.</sup> frequently much altered and added to by other Acts, was, together with those Acts, repealed; and the Municipal Corporations Act, 1882, was passed "for consolidating with amendments" all the previous enactments. The towns to which the Act applies are those named in the schedules to the Act of 1835, those to which charters of incorporation were, subsequently to that Act, granted under sect. 141 of that Act, and those which should in future be incorporated under the Act of 1882. There remained a large number of places claiming to be municipal, but to which the Act of 1835 and its amendments had never applied; these had been reported on by the Royal Commission of 1876, and they were ultimately dealt with by the Municipal Corporations Act, 1883; but we need not here consider them.

<sup>46 & 47 Vict., c. 18.</sup>

The Act of 1882 is applied in only a limited degree to the metropolitan boroughs now created; and it can hardly be intended to apply Part XI. in its entirety to them. The language of subs. (3) of this section, whereby the provisions of the Act of 1882 with respect to a scheme under Part XI. are made to "apply in the case of any scheme under this Act *with the necessary modifications*" will probably furnish the guide to the interpretation of the provision now under consideration. The "modifications" in question would be as follows—

(1) We may disregard all reference to a petition for a charter of incorporation (Municipal Corporations Act, 1882, sect. 210), and consider the creation of metropolitan boroughs under the present Act as equivalent, for the present purpose only, to the grant of such a charter.

(2) The question of the extension to a borough of the general provisions of the Municipal Corporations Acts (Municipal Corporations Act, 1882, sect. 210, and sect. 216), and of the arrangements consequent thereupon (sect. 212) will not arise.

(3) The Committee of Council to which by sect. 211 of the Municipal Corporations Act, 1882, a petition for a charter is to be referred, may be read as the Committee appointed by the present Act (sect. 15, subs. (1), p. 99).

The "purposes" for which a scheme may be made under Part XI. are stated in sect. 213 of the Municipal Corporations Act, 1882, which provides that "The Committee of Council may settle a scheme for the adjustment of the powers, rights, privileges, franchises, duties, property and liabilities of any then existing local authority whose district comprises the whole or part of the area of that borough, either with or without any

adjoining or other place, and also of any officer of that authority (subs. 1).

"The scheme," so far as it appears to the Committee of Council to be necessary or proper for carrying into effect the said adjustment as regards any local authority existing at the time of the making of the scheme, may contain provisions for the continuance of that authority, or for the abolition, total or partial, of that authority, or for the creation of another authority or authorities, and the alteration of the district of the existing local authority, and the union or other relation of the existing local authority and the authority or authorities so created, and for the continuance, modification, transfer, vesting and extension to the whole of the borough of all or any of the powers, rights, privileges, franchises, duties, property and liabilities of the existing local authority, and may contain such provisions as appear to the Committee of Council to be necessary or proper for fully carrying into effect any such adjustment and provisions as aforesaid (subs. 2).

The meaning of the term "local authority" in the above enactments, as applied by the present Act to metropolitan boroughs, is given in subs. (6) (compare note (*p*), p. 109). It is possible that some of the powers here given to the committee will not obtain, as not being "consistent with this Act."

(*d*) Local Government Act, 1888, sect. 57. Many of the provisions of this section are inapplicable under the present Act. Indeed, it would appear that the only matters therein provided for which can be dealt with by scheme are the alteration or definition of the boundary of a parish, its division, its union with any other parish or parishes, and the transfer of part of a parish to another parish. Under sect. 57 of the Local Government Act, 1888, power was given to the County Council, after inquiries and notices, to make an order for any of these purposes. But any such order had to be submitted to the Local Government Board, who must confirm it (with or without modification) unless petitioned against by at least one-sixth of the number of county electors in any parish affected. In case of such petition the Local Government Board were to hold a local inquiry, and determine whether the order was to be confirmed or not. (See Appendix H., p. 281).

(*e*) Local Government Act, 1894, sect. 33. The authority under this enactment is the Local Government Board; and the present Act gives like powers, as regards metropolitan boroughs and parishes, to the Committee of Council proceeding by scheme. The provisions are as follow:—"The Local Government Board may, on the application of the council of any urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any



powers, duties, or liabilities of a parish council (subs. 1). This sub-section has little, if any, specific application under the Act, inasmuch as the several borough councils are expressly made overseers (sect. 11, p. 89). Schemes may, nevertheless, be needed for the purposes of transfer of authority; but these are provided for under the general powers given in (*h*) "for carrying into effect this Act. . . ." Among the powers of a parish council, however, is that of appointing trustees of parochial charities\*; it would, therefore, seem that the Committee of Council have power to confer this power by scheme, subject to subs. (7) of sect. 33 of the Local Government Act, 1894, which requires that the Charity Commissioners be consulted. No such limitation, however, is made to the powers given by sect. 23, subs. (4), p. 120. The same subject of trustees of charities is expressly dealt with in the next sub-section:

"Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish" (subs. 2).

"Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect" (subs. 3).

"The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers" (subs. 4). This sub-section seems to have no specific operation under the present Act. (Compare sect. 30, p. 134).

"An order under this section may also be made on the application of any representative body within a borough or district" (subs. 5).

Subs. 6 applied the section to London. "The Local Government Board shall consult the Charity Commissioners before making any orders under this section with respect to any charity" (subs. 7). The present Act does not expressly apply this saving clause to schemes respecting charities; nor, apparently, is a veto given anywhere to the Charity Commissioners. (Compare sect. 23, subs. (4), p. 120.) Much confusion, however, and even conflict of jurisdiction might possibly arise unless the two departments acted in concert. For many

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\* Local Government Act, 1894, sect. 14.



charities in London are now regulated by schemes formulated by the Charity Commissioners, and these schemes include provisions for the appointment of trustees, who cannot, in general, be altered in number or in representative or other character except with the sanction of the Commissioners. Moreover, the Charity Commissioners have been engaged for several years past (and will continue to be engaged for some time to come) in preparing an exhaustive return of all the charities of the metropolis.

In the application of the foregoing provisions of the Local Government Act, 1894, to the present Act, we must, of course, substitute a scheme prepared by the Commissioners appointed by the Committee of Council, and settled by this committee, for an order made by the Local Government Board. But the present Act does not, it seems, derogate from the powers given to the Local Government Board under the Local Government Act, 1894, sect. 33, with respect to parochial charity trustees.

(f) Nor can a parish be situated in more than one borough. Sect. 17, subs. (1), p. 112.

(g) As the parish is, as heretofore, the rating unit, and, as in many of the boroughs, there is a complete re-arrangement of parishes, considerable complexity will arise as regards existing liabilities and other burdens. It is not easy to see how, in cases like Westminster, Stepney, Finsbury, Bermondsey, and Southwark, any adjustment can be effected which will not impose increased burdens on some of the ratepayers to the relative advantage of others, even in administrative matters. Differential burdens will also be found with regard to expenses falling under the poor law, where the whole of a union is not comprised in the same borough.

(h) The adjustments here referred to will be required in cases where parishes in which the adoptive Acts, or some of them, have not been adopted, are united in a borough with parishes which have adopted those Acts. By sect. 4, subs. (4), p. 58, a borough council will have power, in effect, to extend the Acts to the whole borough in a case of this kind.

(i) Government property is not, by law, liable to be rated, but the Government make to the local authorities contributions in lieu of rates in respect of such property. Some of these contributions are fixed; that is, they are not based on periodical revaluations; others are so based and are variable. There is thus considerable inequality.

(j) By sect. 31, subs. (5), p. 137, the jurisdiction of the London School Board is preserved over the administrative county of London. But inasmuch as the area of the county may be increased by the inclusion of South Hornsey and Mitcham, and decreased by the exclusion of Penge, Clerkenwell detached, and Putney detached—(Schedule I., p. 146, and sect. 18, subss. 2, 3, 4, p. 113; and sect. 20, p. 117; sect. 18, subs. (1), p. 113; sect. 21, p. 119)—a scheme

will be required for adjusting the boundaries of the School Board electoral divisions to suit the new areas.

(*k*) There are an extremely great number of local Acts in operation in the Metropolis, and the majority of them contain rating powers.

Many of these Acts establish relations between local authorities and the London County Council, such as drainage Acts, Acts relating to bridges, tunnels, and embankments, street improvement Acts, gardens and open spaces Acts, and many General Powers Acts. Probably the power of repeal or modification here given will be confined to cases where the local Act more or less conflicts with the efficient operation of the present Act.

(*l*) For matters which may be dealt with by Order in Council, see sect. 15, note (*a*), p. 100.

(*m*) This limitation may perhaps be intended to confer by implication, a right upon persons who may be affected by a proposed adjustment to be heard or to make representations. The full circumstances of each case will presumably be locally inquired into. Compare the proviso to sect. 4, subs. (3), p. 58.

(*n*) See note (*c*) to this section, pp. 104-5. The amendments, relevant to the present section, made by the School Boards Act, 1885, were:—A school board was made a “local authority” for the purposes of Part XI. of the Municipal Corporations Act, 1882 (compare note (*p*) *infra*); but it is provided that: “A scheme . . . if affecting a School Board—(A) shall, before being settled by the Committee of Council, be referred to the consideration of the Education Department; and (B) shall not place the new borough under more than one School Board; and (C) may provide for the continuance of any bye-laws in force at the date of the scheme” (School Boards Act, 1885, sect. 1, subs. (1)). A scheme, therefore, on the lines of Part XI. of the Municipal Corporations Act, 1882, and subject to the present Act, may provide for the adjustment of the rights, powers, property, and liabilities of the London School Board in the several Metropolitan boroughs, when any such adjustment may be rendered necessary by the increase or decrease of the county area or of the areas of School Board electoral divisions; although no scheme can affect the jurisdiction of the School Board over the area of the county (sect. 31, subs. 5, p. 137).

(*o*) These have been discussed under note (*c*) to this section, p. 104.

(*p*) Compare note (*c*), p. 106. By sect. 213, subs. (6) of the Municipal Corporations Act, 1882, it is provided that “A local authority, for the purposes of this Part,\* means a sanitary authority (not being the mayor, aldermen, and burgesses of a borough subject to the Municipal Corporations Acts); also the corporation of a borough not subject to the Municipal Corporations Acts, a burial board, trustees, commissioners, and other

45-6 Vict., c. 50.

\* *i.e.*, Part XI.



persons who, as a public body and not for their own profit, act under any Act for paving, lighting, supplying with water or gas, cleansing, watching, regulating or improving any town or place, or for providing or maintaining a cemetery or market in or for any town or place, and any commissioners, trustees, or other persons (not being justices) maintaining any police force, and any other authority not in this section excepted, and not being a school board, and having powers of local government and of rating for public purposes."

And subs. (7) enacts that "The district of a local authority, for the purposes of this section, means the area within which such authority can exercise any powers or rights."

In the application of the above definition clause to the present Act, it may be observed:—

(1) *Prima facie* the expression "the corporation of a borough not subject to the Municipal Corporations Acts" might include among "local authorities" the new metropolitan boroughs themselves; but the question whether they are so included is perhaps of little importance, as the adjustments here referred to are sufficiently provided for in the present Act itself.

(2) There are no public bodies in the Metropolis, except companies for profit, who supply water or gas.

(3) The Commissioners of Police are excluded by subs. (1) (b) of this section.

(4) The School Board is included by the School Board Act, 1885. See note (n), p. 109.

Thus among the "local authorities" whose rights, powers, privileges, franchises, duties, property and liabilities, may be adjusted by scheme under the Act, there are—

The London School Board.

The Metropolitan Asylums Board.

The Boards of Guardians.

The Boards of Managers of School Districts.

The Boards of Managers of Sick Asylum Districts.

The Ely Place Paving Commissioners.

The Borough Market and Whitechapel Market Trustees.

The various Governors, Guardians, Directors and Trustees of the Poor.

With regard to the Boards and Commissioners under the Adoptive Acts (*i.e.*, the Burial Boards, the Library Commissioners, and the Commissioners of Baths and Wash-houses), they will, it is presumed, be dealt with by scheme under sect. 4, subs. (2), of the Act, p. 58.

To the above authorities must be added the Corporation of the City in respect of Southwark; the Dean and Chapter of St. Peter, Westminster, and the Court of Burgesses of Westminster.

The London County Council are excluded, although they maintain certain roadways, pavements, subways, bridges, etc.; and it is doubtful whether the Thames and Lee Conservancy



Boards would, in the absence of express inclusion, fall within the above definition of "local authority."

(*q*) The Corporation of the City is Lord of the Manor of Southwark. The Recorder of the City is, on the appointment of the Court of Aldermen, High Steward of the ancient borough and Steward of the Manor. The High Bailiff of Southwark, who is appointed by the Corporation of the City, prepares the jury lists and the register of voters. And it is not clear what effect upon these duties will result from the operation of sect. 11, subs. (1), which, in the new boroughs, imposes upon the Town Clerk the duty of preparing those lists.

(*r*) The extra-parochial place of St. Peter, Westminster, has hitherto been administered by the Dean and Chapter of the Church.

(*s*) The Court of Burgesses of the ancient city of Westminster was established under the 27 Eliz., c. 31: "An Act for the good government of the City or Borough of Westminster in Middlesex." This Act was amended by 29 Geo. II., c. 25, and by 31 Geo. II., c. 17. And a further amending Act was passed in 1861—24-5 Vict., c. 78—which gave power to and required the Dean of St. Peter or the High Steward of the City and Liberty of Westminster to call a meeting of the Court of Burgesses, who were to appoint one or more Inspectors of Weights and Measures . . . "for preventing persons dealing by unlawful weights, balances, or measures within the said City or Liberty of Westminster."

But by the Weights and Measures Act, 1889 (amending the Weights and Measures Act, 1878—called the principal Act) it is provided, by sect. 16, that "Notwithstanding anything in sect. 54\* of the principal Act, and any other provision in that *or any other Act*, the inspectors of weights and measures appointed by the London County Council shall alone within the whole of the county of London, exclusive of the city of London, have the powers and discharge the duties of inspectors of weights and measures appointed under the principal Act." This provision is followed by one saving the interests of existing officers. Thus the powers given by the Westminster Act of 1861 were superseded; and it is difficult to state what powers, if any, remain to the Court of Burgesses at the present day.

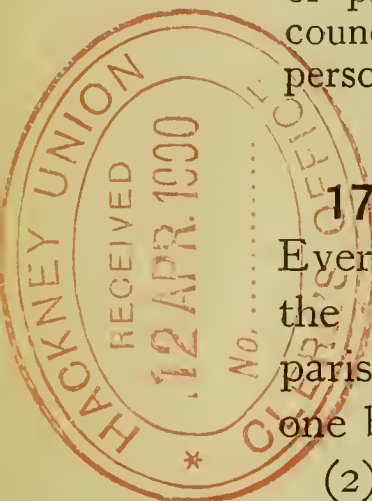
(*t*) The procedure under the present Act will apparently be this: When a scheme has been drafted, notification of the fact will be made in the *London Gazette*, "and in such other manner as the Committee of Council may direct." This will be so arranged, it is presumed, as to give persons who may have the right or may desire to be heard, or to enter objections, the opportunity of doing so. After a scheme is settled there will be similar notifications. The draft scheme or settled scheme

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\* Section 54 of the Act of 1878 gives the appointment of inspectors to the magistrates.

will not be published *in extenso*, but the notifications will state where it can be seen and copies obtained.

(u) The Municipal Corporations Act, 1882, sect. 213, subs. (3), directs that a scheme under that section is to be published in the *London Gazette*. And the Seventh Schedule to that Act contains rules as to publication of draft schemes; and further requires that a scheme, when settled, "shall, besides being published in the *London Gazette*, be published by advertisement, or placards, or handbills, or otherwise, as the committee of council think best calculated for giving notice thereof to all persons interested."



**17. Rules as to boroughs and parishes.—(1)** Every part of the administrative county of London outside the City shall be situate in some borough and some parish (a), and a parish shall not be situate in more than one borough, or partly in a borough and partly in the City.

(2) An Order in Council under this Act may divide a parish or place into parts for the purpose of giving effect to this section, or of constituting a satisfactory area for a borough, and, unless otherwise provided (b) by the Order or by a scheme under this Act, each part shall be a separate parish.

18 & 19 Vict.,  
c. 120.

(a) This provision will get rid of the extra-parochial places named in Schedule C. to the Metropolis Management Act, 1855. They will be constituted separate parishes, or united so as to form parishes, or added to adjoining parishes by Order or scheme. They are the Charter House, Gray's Inn, Lincoln's Inn, Staple Inn, Furnival's Inn, and the Close of St. Peter, Westminster. The Tower of London, too, which is Government property (compare sect. 16, subs. (1) (e), p. 103), will apparently have to be included in some borough and some parish, or made a separate parish. It is, in fact, for ecclesiastical purposes, the parish of St. Peter-ad-Vincula. The exact legal position of the Tower, however, for civil parochial purposes, is not free from doubt; there is ground for suggesting that it is in reality part of the adjoining parish of St. Botolph-Without, Aldgate. Compare the Poor Law Amendment Act, 1868—31-2 Vict., c. 122, sect. 27. The Inner and Middle Temples being expressly included by the Act (sect. 22, p. 119) in the City, are not affected by this section.

It may also be found necessary to make adjustments as regards certain parts of parishes which are administered by the Corporation of the City as regards municipal services, but are outside the city for poor law, School Board, and other purposes. These



include bits of Furnival's Inn, Glasshouse Yard, Saffron Hill, Shoreditch, and Whitechapel.

(b) As, for example, by Order in Council under sect. 18, *infra*, or by scheme under sect. 16, subs. (1) (c), p. 102.

**18. Detached parts of parishes.**—(1) Every part of a parish in London which is wholly detached from the principal part of the parish shall, by an Order in Council under this Act, be annexed to or divided between any of the boroughs which it adjoins, and be either constituted a separate parish, or be annexed to or divided between any of the parishes which it adjoins (a), so, however, that the provisions of this Act with respect to a parish not being situate in more than one borough shall be observed (b).

Provided that if the Commissioners under this Act (c) make a special report to Parliament that by reason of anything done under any of the adoptive Acts, or for any other exceptional reason, it is impracticable to deal with a detached part of a parish in manner required by the foregoing provisions of this action, those provisions shall not apply (d).

And further provided that the foregoing provisions of this section shall not apply to the hamlet of Knightsbridge (e).

(2) Where the County of London surrounds a detached part of a parish in another county (f), the foregoing provisions shall apply (g), and the detached part shall for all purposes (h) become part of the County of London, and of the appropriate county electoral division (i).

(3) Where a detached part so becomes part of the County of London, and is part of any urban district, the remainder of which adjoins the County of London, the whole of the district may, by Order in Council, if it seems expedient after considering all the circumstances of the case, be added to and form for all purposes part of the County of London, and of the appropriate borough (j).

(4) Where a detached part of a parish in the County of London is wholly surrounded by any other county (k), the detached part shall for all purposes (l) become part of that



county, and where a detached part as aforesaid is surrounded by more than one county, that detached part shall become part of such county as shall be determined by Order in Council under this Act, and every such detached part shall, by Order in Council, be either constituted a separate parish or annexed to or divided between any parish or parishes which it adjoins, and be added to the appropriate county district and county electoral division (*l*).

(5) Nothing in this section shall apply to the City of London.

(6) The London County Council and the Council of any adjoining county shall be entitled to be heard on any alteration or proposed alteration of the area of the County of London (*m*).

(a) The parishes, wholly in the County of London (outside the city), of which there are parts detached from the principal part, are given in the following table (Knightsbridge being excluded):—

| Parish.           | Total<br>area<br>of<br>Parish.<br>Acres. | Area<br>of<br>detached<br>part.<br>Acres. | Adjoining<br>Parishes.              |
|-------------------|--|---|-------------------------------------|
| Chelsea ... ..    | 794                                      | 144                                       | Kensington and Paddington.          |
| Clapham ... ..    | 1,137                                    | 67  | Battersea and Streatham.            |
| Kidbrooke ... ..  | 750                                      | 114                                       | Charlton, Greenwich, and Eltham.    |
| St. Clement Danes | 55                                       | 1   | St. Martin-in-the-Fields and Savoy. |
| Streatham... ..   | 2,914                                    | 164                                       | Camberwell and Lambeth.             |

(b) Compare sect. 17, subs. (1), p. 112. For example, Kensal Green, the detached part of Chelsea, if made a separate parish, must be annexed to either Kensington or Paddington.

(c) See sect. 15, subs. (1), p. 99. It will be observed that the special report is to be made, not to the Committee of Council, but direct to Parliament.

(d) This proviso seems to indicate the holding of an inquiry before any detached part is meddled with.

(e) *Knightsbridge* is a detached part of St. Margaret, Westminster; and adjoins the parishes of St. George, Hanover Square, and Kensington.

(f) The County of London surrounds—

1. Hornsey detached, in Middlesex; area, sixty-six acres.
2. Mitcham detached, in Surrey; area, four acres.

(g) In the case of Hornsey, it would seem that the detached part at least (subject, presumably, to a special report under the proviso to subs. 1) *must* be annexed to Stoke Newington, and cannot be added to Islington, although the latter also adjoins it. Compare Schedule I., p. 146.

Mitcham detached is wholly surrounded by the parish of Tooting Graveney: it will be added to the county of London and the borough of Wandsworth.

(h) (i) The scope of the expression "for all purposes" must be limited by reference to sect. 31, subs. (3), p. 137, which provides that "Nothing in or done under this Act shall be construed as altering the limits of any parliamentary borough or parliamentary county." That saving clause evidently excludes parliamentary voting from being one of the consequences of the inclusion of South Hornsey, or its detached part, and of Mitcham detached, in the county of London. They will still form part of the parliamentary counties of Middlesex and Surrey respectively. And the expression "county electoral division" refers only to county council elections. When, however, it is borne in mind that the duty of making up the register of voters and the jury lists is imposed on the town clerks of the London boroughs into which these parts will be absorbed (sect. 11, subs. 1, p. 89) some practical difficulties may be anticipated.

(j) For example, the *whole* of the urban district of South Hornsey may, under this provision, be taken into the County of London, and form part of the borough and county electoral division of Stoke Newington; but as pointed out in the last note, parliamentary electors in that district will not vote, like the rest of the electors of Stoke Newington, for the parliamentary borough of Hackney (North Division), but will continue to vote in Middlesex. The part of South Hornsey which is outside the London County boundary, though much larger in area, has a smaller population and rateable value than the part inside.

(k) This is the converse case to the foregoing. The parts concerned are—

1. Clerkenwell detached, surrounded by Middlesex (Hornsey): area, sixty-four acres;
2. Putney detached, surrounded by Surrey (Barnes): area, nineteen acres.

Compare notes (i) (j) to this section, *ante*.

(l) Thus the detached part of Clerkenwell will be included in the Middlesex district of Hornsey, and that of Putney in the Surrey district of Barnes.

(m) That is, either for or against the proposal. The language of this sub-section would seem to give more, perhaps, than is intended; for example, Kent, an adjoining county, would have a voice in deciding the fate of Mitcham detached, and Essex might claim to be heard as to the destination of Penge.



**19. Application of Act to Woolwich.**—(1) A scheme under this Act (*a*) shall provide for placing Woolwich under the general law applying to metropolitan boroughs, and for the repeal of the application thereto of the provisions of the Public Health Acts and other enactments not applying to London, and for the application thereto of the Metropolis Management Act, 1855 to 1893, and other enactments applying to London (*b*).

(2) Subject to the provisions of any such scheme this Act shall apply to Woolwich in like manner as if the local board of health thereof were an administrative vestry (*c*).

(3) Nothing in this Act shall prevent the council of any borough consisting of or comprising Woolwich from continuing to make any contribution for the purpose of technical education (*d*) hitherto made by any local authority (*e*), or from exercising any existing powers of carrying on a market (*f*).

(*a*) See sect. 15, subs. (1), p. 99; sect. 16, subs. 1 (*a*), p. 102.

(*b*) It will be remembered that the new metropolitan borough of Woolwich will include, besides Woolwich, Plumstead (hitherto administered by the Plumstead Vestry), and Eltham (hitherto part of the area of the Lee District Board).

Woolwich was, in 1852, made a Local Board under the Public Health Act, 1848; and its status was not altered by the Metropolis Management Act, 1855, nor even by the Local Government Act, 1894, which changed all other Local Boards into urban district councils (sect. 21, subs. 1). Compare sect. 31. It therefore possessed powers beyond those conferred on the vestries and district boards of London, such as the administration of the Burial Acts, allotments, technical education, markets, and even conditional powers of water supply, though this last has been inoperative. By the Public Health (London) Act, 1891, sect. 102, the leading provisions of the Public Health Acts, 1875 to 1890, were extended to Woolwich.

The Woolwich Local Board has twenty-one members, of whom three are *ex-officio*, being Government nominees representing the Arsenal, barracks, and hospital. The Act makes no reference to these nominees in connection with the council of the new borough; but compare sect. 16, subs. (1) (*c*), p. 102.

(*c*) Compare sect. 2, subs. (5), p. 53; and sect. 4, subs. (1), p. 57.

(*d*) Technical education is supported by the Woolwich Local Board as a local authority under the Technical Instruction Acts, 1889 (52 and 53 Vict., c. 76) and 1891 (54 Vict., c. 4), by

11-12 Vict., c. 63.

18-19 Vict., c. 120.

56-7 Vict., c. 73.

54-5 Vict., c. 76.

38-9 Vict., c. 55,  
&c.



means of an annual payment towards the expenses of the Woolwich Polytechnic.

(*e*) This simply applies to the Woolwich Local Board, as neither Plumstead nor Eltham have hitherto contributed, or had power to contribute, to technical education. This may be a case for "adjustment" under sect. 16.

(*f*) The Woolwich Local Board are the owners of a public market, which yields a profit of about £500 a year.

**20. Special Provision as to Penge.**—(1) An Order in Council under this Act (*a*) may either annex Penge (*b*) to the borough of Lewisham (*c*) or to the borough of Camberwell (*d*), or separate it from the County of London and make it form part of the County of Surrey, or of the County of Kent (*e*), and if it is so separated, shall provide for constituting it an urban district (*f*), or for adding it to an adjoining county borough (*g*) or urban district (*h*), and if necessary shall determine the county electoral division to which it is to belong (*i*).

(2) A scheme under this Act (*a*) shall make such provision as may be necessary for the apportionment and transfer of property and liabilities, and for the repeal of the application to Penge of the Metropolis Management Acts, 1855 to 1893, and any other enactments applying to London, and for the application thereto of the Public Health Acts and other enactments not applying to London (*j*).

(*a*) See sect. 15, subs. (1), p. 99.

(*b*) *Penge*. The position of the hamlet of Penge has always been anomalous. It is situated in the administrative County of London, but its poor law administration is carried on by the guardians of the Union of Croydon, in Surrey. It is in the parliamentary borough of Camberwell (Dulwich division), and its representation on the London County Council is as part of Dulwich. Its municipal affairs, however, are administered by the District Board of Lewisham, under the Metropolis Management Acts. Being in the Union of Croydon, it is outside London from the point of view of the Registrar General; its valuations are not assessed under the Valuation (Metropolis) Act, 1869, but are totalised by the County Rate Committee of the London County Council acting under the County Rate Act, 1852; and it is outside the district of the Metropolitan Asylums Board. It contributes to and shares in the Equalization Fund established by the London (Equalization of Rates) Act, 1894; 32-3 Vict., c. 67. 15-6 Vict., c. 81. 57-8 Vict., c. 53.

51-2 Vict., c. 41. it earns the county grants made by the London County Council under the Local Government Act, 1888, sect. 43, subs. (1) (c), and sect. 24;\* but it does not share in or contribute to the Metropolitan Common Poor Fund. See note (b) to sect. 10 *ante*, p. 87.

The following are some statistical facts relating to Penge:—

|   |     |                        |     |                 |                  |
|---|-----|------------------------|-----|-----------------|------------------|
| Area  | ... | ...                    | ... | ...             | 770 acres.       |
| Population (estimated) 1898   | ... | ...                    | ... | ...             | 21,423           |
| Rateable Value, 1899  | ... | ...                    | ... | ...             | £153,310         |
| Total houses, 1896  | ... | ...                    | ... | ...             | 3,773            |
| Inhabited Houses, 1896  | ... | ...                    | ... | ...             | 3,451            |
| Rated houses, 1898  | ... | ...                    | ... | ...             | 3,717            |
| Net amount received from Equalization Fund (1897-8) which is equal to 1·38d. in the £             |     |                        |     |                 |                  |
| County Grants, 1896-7   | ... | ...                    | ... | ...             | £869 1 8         |
| Decrease in Rates due to operation of Equalization and County Grants (1896-7) ... 0·07d. in the £ |     |                        |     |                 |                  |
| Total Rates made (1898-9)   | ... | ...                    | ... | ...             | 6s. 0d. in the £ |
| Loans outstanding on credit of Rates (1897-8)   | ... | ...                    | ... | ...             | £156,519         |
| Loan charge on Rates (1897-8)   | ... | ...                    | ... | ...             | £10,925          |
| Parochial Electors, 1898  | ... | ...                    | ... | ...             | 3,075            |
| Exemptions from Rates, 1895-6:  |     |                        |     |                 |                  |
|   |     | Number of Assessments, |     | Rateable Value, |                  |
| 1. Houses and Tenements }<br>not exceeding £20 value }  | ... | 1,370                  | ... | £19,425         |                  |
| [Hereditaments above £20  | ... | 2,511                  | ... | £132,395]       |                  |
| 2. Unoccupied properties  | ... | 225                    | ... | £8,593          |                  |
| 3. Telegraph wires  | ... | ...                    | ... | £3              |                  |
| 4. Land under the Agricultural Rates Act, }<br>1896—59-60 Vict., c. 16                            | ... | ...                    | ... | £76             | (Half value.)    |

(c) Penge, although hitherto municipally a part of the Lewisham District, is geographically separated from Lewisham by Beckenham, which is an urban district in the county of Kent.

(d) As stated in note (b) Penge is in the Dulwich county electoral division of Camberwell.

(e) Penge adjoins both counties, Surrey on the south-west and Kent on the south-east and north-east.

(f) That is, with an urban district council under the Local Government Act, 1894 (56-7 Vict., c. 73).

(g) Presumably Croydon, if the district is added to Surrey.

(h) Presumably Beckenham, if the district is added to Kent.

(i) The saving provision of sect. 31, subs. (3), p. 137, will of course, apply, notwithstanding any alteration made in the position of Penge for other purposes. The first part of this sub-section will be called into operation in any event; the second part only

\* And the Registration of Electors Act, 1891—54 Vict., c. 18, sect. 2.

in case Penge is separated from the county of London. If it remains in London it will be annexed to the metropolitan borough of Lewisham or to that of Camberwell, and will, no doubt, be separated from the Croydon Union, and be dealt with parochially by Order or scheme. It will then be in the metropolis for all purposes whatsoever, and will fall under the operation of the Valuation (Metropolis) Act, 1869. If, however, it is annexed to Surrey or to Kent, it will cease to be under the operation of the Metropolis Management Acts, and will be governed by the Local Government Act, 1894, and will have the Public Health Acts applied to it.

The following comparison of local taxation in 1897 is worthy of notice :—

|            | Total Rates<br>in the £. |    | Effect on Rates of<br>Equalization, &c. | Effect on Rates of<br>Common Poor Fund alone. |
|------------|--------------------------|----|---|---|
|            | s.                       | d. | d.                                      | d.  |
| Penge      | 6                        | 4  | ·07 less.                               |   |
| Camberwell | 6                        | 6  | 8·66 less.                              | 3·21 less.                                    |
| Lewisham   | 6                        | 5  | ·53 more.                               | ·69 more.                                     |
| Croydon    | 5                        | 6  |   |   |
| Beckenham* | 4                        | 9  |   |   |
| and        | 5                        | 6  |   |   |

See sect. 18, subs. (6), p. 114, and note (*m*) to that section, p. 115.

**21. Provision as to Kensington Palace.**—An Order in Council under this Act may detach Kensington Palace from the borough of Westminster, and attach it to the borough of Kensington.

**22. Provision as to the Temples.**—The places known as the Inner and Middle Temples shall, for the purpose of this Act, be deemed to be within the City of London (*a*).

(*a*) The Temples are extra-parochial places included in Schedule C. to the Metropolis Management Act, 1855. For parliamentary and county council purposes they are included in the city electoral division. For poor law purposes, the Inner Temple is in the City of London Union, and the Middle Temple in the Strand Union.

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\* Part of Beckenham drains into the Metropolitan main drainage system, and part into the West Kent system; and the sewers rate for the latter was 9d. in the £ higher than that for the former. Penge will, of course, continue to drain into the London system.



## SUPPLEMENTAL.

**23. Church Affairs and Charities.**—(1) Nothing in this Act shall transfer to a Borough Council any powers or duties of a vestry which relate to the affairs of the Church, or any interest of a vestry in any Church property, or shall make any incumbent or churchwarden an ex-officio member (*a*) of a borough council, and a scheme under this Act (*b*) shall provide for vesting any such powers and duties in the inhabitants of some parish or ecclesiastical district, and for vesting any such interest in the incumbent and churchwardens, or one or some of them, and for the collection of any rate connected with a church or an incumbent by the churchwardens, or by officers appointed for the purpose (*c*).

(2) Provided that any building which belongs to any body whose powers and duties are transferred to any borough council by or under this Act (*d*), and which has been erected wholly or partly on a churchyard shall, with its appurtenances, be transferred to and vest in the council, subject to such right of use for church purposes as may be given by the scheme (*e*).

(3) As from the appointed day (*f*), the churchwardens of every parish within a metropolitan borough shall cease to be overseers (*g*), and references in any Act to the churchwardens and overseers of any such parish shall, except so far as those references relate to the affairs of the Church, be construed as references to the council of the borough comprising the parish, and the legal interest in all property vested either in the overseers or churchwardens and overseers of any such parish (other than property connected with the affairs of the Church, or held for an ecclesiastical charity within the meaning of the Local Government Act, 1894) (*h*), shall, subject to the provisions of any scheme under this Act (*i*) vest in the borough council.

(4) Provision shall be made by scheme under this Act for substituting nominees of the borough council for

overseers as trustees of any charity (*j*), due regard being had to the area benefited by the charity.

(5) The Charity Commissioners shall, for the purposes of this Act, have the like powers with respect to charities, subject to the like appeal, as they have under and for the purposes of the Local Government Act, 1894 (*k*).

(6) Nothing in this Act shall affect the right to the benefit of any charity, or shall alter or confer any power of altering the defined charitable purposes (if any) to which any property is by law applicable at the passing of this Act.

(*a*) The Local Government Act, 1894, had already abolished <sup>56-7 Vict., c. 73.</sup> *ex-officio* membership of urban sanitary authorities (sect. 23, subs. 1), including apparently under that term the vestries and district boards of the metropolis (sect. 31, subs. 1), and this last section expressly abolished *ex-officio* chairmanship. Nevertheless, the administrative vestries include certain *ex-officio* members, numbering nearly a hundred in all. We have seen (sect. 19, note *b*) that there are three *ex-officio* members of the Woolwich Local Board, but they are not ecclesiastical.

(*b*) See sect. 15, subs. (1), p. 99, and sect. 16, subss. (1, 2,) pp. 102-103.

(*c*) The following table gives the parishes and places where rates are levied which are "connected with a church or an incumbent," with some particulars as to such rates:—

| Parish.                            | Rate.  | Amount<br>in the £<br>(1897-8). |
|------------------------------------|--|---------------------------------|
| Bow (St. Mary)...                  | Church Rate ... ..   | d.<br>8                         |
| Poplar (All Saints) ...            | „ 57 Geo. III.,<br>c. 34 ... ..  | $\frac{1}{2}$                   |
| Bethnal Green<br>(St. Matthew) ... | Composition rate under Local<br>Act of 1845 in commuta-<br>tion of tithes, garden<br>pennies, and Easter offer-<br>ings ... ..           | $\frac{1}{2}$                   |
| Christchurch, Southwark            | Minister's Rate, 6-7 W. III.,<br>c. 10 ... ..  | $\frac{1}{4}$                   |
|                                    | Church Rate (voluntary) ...  | 2                               |
| Horselydown (St. John)             | Rector's Rate under<br>7-8 Geo. IV., c. xxiii. ...   | 1 (for<br>about 18<br>months).  |
| Putney (St. Mary) ...              | Church Rate (voluntary) ...  | 6                               |
| St. Clement Danes ...              | Church Rate ... ..   | 2                               |
| St. Mary-le-Strand ...             | Rector's Rate, 12 Geo. I.,<br>c. 39 ... ..   | average<br>about $\frac{3}{4}$  |
| St. Olave<br>and St. Thomas* ...   | Rectory Rate under Local<br>Act, 57 Geo. III., c. vii...   | $1\frac{1}{2}$                  |
| St. Paul, Covent Garden            | Rector's Rate under Local<br>Act, 51 Geo. III., c. cl....  | 3                               |
| Shadwell (St. Paul) ...            | Rector's Rate, in lieu of<br>tithes under Rector's Act,<br>22 Car. II. ... ..  | 1                               |
|                                    | Church Rate, in lieu of<br>funeral dues, under Shad-<br>well Church Acts, 57<br>Geo. III., c. lxxii., and<br>4 Geo. IV., c. lxxviii. ... | 1                               |
| Wapping (St. John) ...             | Rector's Rate, 29 Geo. II.,<br>c. 89 ... ..  | $\frac{1}{2}$                   |
|                                    | Church Rate (voluntary) ...  | 1                               |

\* The parishes of St. Olave and St. Thomas were united in 1896 ; but the Rector's Rate is levied on the old parish of St. Olave only.



In St. Marylebone compulsory church rates were for many years levied under local acts of George III. and George IV. There was also levied a Special Rate, under the Compulsory Church Rate Abolition Act, 1868, for the non-ecclesiastical purposes of the Local Act, 51 Geo. III., c. cli. It amounted to  $\frac{1}{8}$ d. These local Acts were superseded by the St. Marylebone (Church Rate Abolition) Act, 1898—60 and 61 Vict., c. cxc., whereby, in consideration of a capital payment of £80,000 by the vestry to the Ecclesiastical Commissioners, with a further sum of £2,700 for immediate repairs (the whole of which amount the vestry are empowered to borrow for that purpose, with the consent of the Local Government Board, on the security of the general rate), the church rate was abolished, and the vestry and ratepayers were released from liability under the prior Acts. The Ecclesiastical Commissioners were to pay £2,400 a year for the churches interested, and St. John's-Wood burial-ground, and certain other plots, were to be maintained as open spaces by the vestry.

(d) See sect. 4, subss. 1, 2, pp. 57-58, and sect. 18, subs. (3), p. 113.

(e) That is presumably the scheme prescribed in subs. (1) of this section. It may, however, be found in practice that a separate scheme will be required.

(f) See sect. 33, subs. (1), p. 140.

(g) Compare sect. 11, subs. (1), p. 89.

(h) Sect. 75 of the Local Government Act, 1894, defines an "Ecclesiastical Charity" and "Affairs of the Church." See Appendix J, p. 282.

(i) Modifications may be introduced by scheme, in cases, for example, where the purposes of a charity are partly ecclesiastical and partly civil. Such cases would perhaps involve apportionments, and other arrangements.

(j) See note (e) to sect. 16, p. 106. The limiting words following "due regard being had," &c., were probably suggested by sect. 33, subs. (2), of the Local Government Act, 1894, which is cited in that note. And compare sect. 14, subs. (3), of the Local Government Act, 1894, referred to in note 2 to Appendix J, p. 283.

(k) The right of appeal to the High Court is given and regulated by sect. 70, subss. (2) and (3) of the Local Government Act, 1894. Subs. (2) provides that any question as to the appointment of trustees or beneficiaries of any charity, or as to the vesting of any charity property shall be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. And subs. (3) gives a further appeal to the Court of Appeal, but only by leave of the High Court or Court of Appeal.

There is, however, in subs. (2) a proviso subjecting such appeals to the conditions imposed on appellants from orders

of the Charity Commissioners generally. The effect of this is that, as a rule, an appeal can only be brought by or with the authorisation of the Attorney General.

**24. Mayors of Boroughs as Justices of the Peace.**—With respect to a mayor of a borough being by virtue of his office a justice of the peace:—

- (1) he shall become a justice of the peace for the County of London; (*a*)
- (2) he shall not be disqualified by reason of being a solicitor practising or carrying on business in the County of London or City of London; (*b*)
- (3) he shall not practice as a solicitor before any justices of the County of London (*c*).

(*a*) The wording here is not precisely the same as in the corresponding sections of the Municipal Corporations Act and in the Local Government Acts.

45-6 Vict., c. 50.

The Municipal Corporations Act, 1882, provides (sect. 155) that "the mayor shall, by virtue of his office, be a justice for the borough, and shall, unless disqualified to be mayor, continue to be such a justice during the year next after he ceases to be mayor."

51-2 Vict., c. 41.

The Local Government Act, 1888, provides (sect. 2, subs. 5 *b*) that the chairman of a county council "shall, by virtue of his office, be a justice of the peace for the county."

56-7 Vict., c. 73.

The Local Government Act, 1894, provides (sect. 22) that "The chairman of a district council, unless a woman or personally disqualified by any Act, shall be, by virtue of his office, a justice of the peace for the county in which the district is situate." This provision was extended to the chairmen of the metropolitan vestries and district boards by sect. 31, subs. (2), which sub-section the present Act repeals. Schedule III., p. 156.

There are many disqualifications of a special character introduced into various Acts of Parliament, as that persons of certain trades or businesses cannot act as justices in the decision of matters arising in their trade or business; but the principal general disqualifications are—

46-7 Vict., c. 52.

1. Bankruptcy under the Bankruptcy Act, 1883, sect. 32; but this disqualification ceases—

- (i.) If the adjudication is annulled;
- (ii.) If the bankrupt is discharged with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part;

53-4 Vict., c. 71.

- (iii.) Under the Bankruptcy Act, 1890, sect. 9, after five years from the date of any discharge.



2. Corrupt practices at elections disqualify for seven years from the date of conviction. Corrupt, &c., Practices Prevention Act, 1883, sects. 4, 6; and Municipal Elections (Corrupt, &c., Practices) Act, 1884, sect. 2, subs. 2, and sect. 3. 46-7 Vict., c. 51.  
47-8 Vict., c. 70.

3. The sheriff of a county cannot, during his term of office, act as justice for that county. Sheriffs Act, 1887, sect. 17. 50-1 Vict., c. 55.

4. The clerk to the justices of the county cannot be a justice of the peace for that county. If, therefore, he is elected mayor and accepts office he will vacate his office of clerk to the justices. *Reg. v. Douglas*, 1898, 1 Q.B., 560.

5. A solicitor—see next note.

(b) By 34 Vict., c. 18 (1871), which repeals the more stringent disqualifications previously existing, it is provided (sect. 1) that “no person shall be capable of becoming or being a justice of the peace for any county in England or Wales (not being a county of a city or county of a town), in which he shall practise and carry on the profession or business of an attorney, solicitor, or proctor;\* and where any person practises and carries on such profession or business in any city or town being a county of itself, he shall, for the purpose of this Act, be deemed to carry on the same in the county within which such city or town or any part thereof is situate.” And sect. 2 provides that . . . “A person shall be deemed to practise and carry on his profession or business in the county, city, or town in which he maintains an office or place of business.”

This disqualification is removed as far as the mayor of a metropolitan borough is concerned with regard to his being an *ex-officio* justice for the county of London.

(c) The extent of this restriction is somewhat doubtful. For, in addition to the ordinary justices and stipendiaries, the High Court and County Court judges are justices, as are also the chairman and deputy-chairman of the Court of Quarter Sessions. It may therefore be questioned whether the mayor, if a solicitor, could appear in a county court situated in the metropolis, or, indeed, in any court even outside the metropolis, presided over by a county court judge who also sits in the metropolis. A solicitor, as such, has in general no right of audience in the High Court (except in bankruptcy) or in the London County Sessions Court. Whether the expression “shall not practise as a solicitor before” is restricted to barring the right of audience or extends to prevent a solicitor from instructing counsel or attending on counsel is a question of some difficulty.

**25. Deputy Town Clerk.**—In case of the illness or absence of the town clerk, the borough council may appoint a deputy town clerk to hold office during their

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\* By the Judicature Act, 1873 (36-7 Vict., c. 66), sect. 87, the distinction between attorneys, solicitors and proctors was practically abolished, and all are now solicitors of the Supreme Court.



pleasure (*a*), and all things required or authorised by law to be done by or to the town clerk may be done by or to the deputy town clerk (*b*), and no defect in the appointment of a deputy shall invalidate his acts.

(*a*) In practice, no doubt, one of the permanent staff—probably the town clerk's chief assistant—will be the deputy town clerk. As such, he will hold office only *during pleasure*; so that he may be superseded in his capacity of deputy town clerk at any time, although in his ordinary position he might be entitled to notice before being dismissed.

(*b*) As matters falling under the Registration of Electors Acts (sect. 4, subs. 1, p. 57, and sect. 27, subs. 2, p. 128), counter-signing of orders for payment and of cheques (sect. 9, p. 86), preparation and signature of voters' lists and jury lists (sect. 11, subs. 1, p. 89), acting as clerk to assessment committee (sect. 13, p. 96) as well as the ordinary duties of clerk to the council.

**26. Alteration of Wards.**—(1) Whenever the Local Government Board is satisfied (*a*) that a *prima facie* case is made out for a proposal for the alteration of the number of wards of a metropolitan borough, or of the boundaries of any ward, or of the apportionment of the members of the council among the wards (*b*), the Local Government Board may cause such enquiry to be made, and such notices to be given as they may think expedient; and if satisfied that the proposal is desirable, may make an order accordingly (*c*).

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in such manner as the Local Government Board may direct.

(3) The expenses of and incidental to the making of the order shall be paid by the borough council.

(*a*) "*Is satisfied*," &c.—This phraseology occurs in other enactments: *e.g.*, in the Local Government Act, 1888, sect. 57, which is, with limitations and modifications adopted in the present Act. See sect. 16, subs. (1) (*c*), p. 102, and note (*d*) to that section, p. 106. Two processes are requisite for obtaining a Local Government Board order under this section: first, the Local Government Board must be "*satisfied that a *prima facie* case is made out.*" It appears to be immaterial how the Board are "*satisfied*," whether by information obtained on its own motion, or from written communications, or as the result of a preliminary inquiry upon a representation, request, or petition.

It is probable that if there appeared to the Board to be a difference of opinion in the borough on the subject of any suggested alteration, the Board would hold a preliminary local inquiry. Secondly, assuming that a *primâ facie* case is made out to the satisfaction of the Board, then the Board may, and, in all probability, will, hold a public local inquiry; on the result of which will depend whether they make the order or not.

(b) There is, however, no power given to alter the total number of members of the council. And the number of councillors for each ward must, it is presumed, always be divisible by three. Compare sect. 2, subs. (2), p. 52, and note (g) to that section, p. 54. Where the number of wards is altered, there will have to be a consequent re-apportionment of the members, but the converse will not, of course, necessarily occur.

(c) An order under this section will not be a Provisional Order, and will not be subject to the incidents referred to in sect. 28, subs. (1), p. 131, which see. It will be a final order, with the incidents referred to in sect. 28, subs. (2) (*ib.*), which see. It is probable also that the provisions of sect. 28, subs. (3) (*ib.*), apply to the proceedings under this section,\* so that the L. G. B. may, if they think fit, act independently of the regulations for arbitrations. It is presumed that it is intended that the board will have regard to the rateable value and population of the wards as in sect. 2, subs. (3), p. 52.

The powers here given to the L. G. B. have hitherto been exercised by the London County Council as regards parishes for the purposes of vestry and guardians' elections, under their General Powers Acts of 1893 and 1895. The policy of the county council has been to make the vestry wards coterminous with the wards for guardians' elections, and also to prevent overlapping with the polling districts for county council and parliamentary elections. The provisions giving these powers are now repealed. See sched. III., pp. 157, 160.

**27. Provisions as to names, first elections, etc.**—(1) An Order in Council under this Act (*a*) shall:—

- (a) give each of the metropolitan boroughs an appropriate name (*b*); and
- (b) fix the days, years, and times for the retirement of the first aldermen and councillors (*c*); and

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\* It will be observed, however, that the language of this section does not include the word "determine," as in sect. 6, subs. (2), p. 73; sect. 7, subs. (1) (*a*) and proviso, pp. 81, 82; L. G. A., 1888, sect. 57, subs. (3), incorporated by sect. 8, subs. (4), of this Act, p. 83.



(c) give such directions as to the first meeting of the borough councils, and make such other temporary modifications of the provisions of this Act, as may appear to Her Majesty to be necessary or proper for making those provisions applicable in the case of the first constitution of a borough council (d).

(2) An order in Council under this Act (a) may make such provisions as appear necessary for adapting the enactments relating to the registration of electors (e) to the provisions of this Act with respect to the powers and duties of the town clerk and overseers (f), and in particular for applying, so far as appears necessary, the law regulating the registration of electors in a municipal borough outside London (g).

(3) An Order in Council under this Act (a), shall provide for the revised list (h) of voters in the administrative County of London outside the City being, in the year one thousand nine hundred, printed and signed before the twentieth day of October, and coming into operation as the register for the purpose of borough elections on the first day of November (i), and may provide for such adjustment of the lists of voters and registers with respect to any alteration under this Act of parish boundaries (j) as may appear required for the purpose of those elections.

(4) On the day on which the first borough councillors elected under this Act come into office (k), the persons who are then members of elective (l) vestries or district boards, and the auditors (m) and overseers (n) of any place to be included in a borough (o), shall cease to hold office (p), and until that day the persons who are at the passing of this Act (q), members of elective vestries and district boards, and auditors and overseers, shall continue in office as if the term of office for which they were elected or appointed expired on that day, and, except for the purpose of filling casual vacancies (r), no further election or appointment shall be held or made.

(a) Sect. 15, subs. (1), p. 99.

(b) "*An appropriate name.*"—It is to be presumed that in naming most of the boroughs the Committee of Council will be



guided by Schedule I. The fifteen boroughs consisting of single parishes will probably retain their old names; of the others, the names of Holborn, Finsbury, Deptford, Greenwich, Lewisham, and Woolwich are pretty plainly indicated in the schedule; the same may be said of Poplar, Wandsworth, Stoke Newington, and Westminster. There remain three boroughs of which the area is more complex in description, namely—

1. The Limehouse, Whitechapel, Mile End and St. George's east area, for which the name of *Stepney* has been indicated.
2. The Newington, St. George's, St. Saviour's, and Christchurch area, to be called *Southwark*.
3. The Bermondsey, Rotherhithe, Horselydown, and St. Olave's area, to be called *Bermondsey*.

(c) By sect. 2, subs. (4), p. 52, it is provided that the provisions of the Local Government Act, 1888, with respect to county aldermen shall apply to the aldermen of a metropolitan borough, except as otherwise provided by or under this Act.

The provisions of the Local Government Act, 1888, as to the retirement of the first aldermen, are contained in sect. 104, subs. (2); and as modified by the present sub-section they are the following:—

1. In the year and on the day fixed by the Order in Council (which will be, presumably, the 9th November, 1903—see sect. 3, subs. (3), p. 57), one half of the first aldermen will retire.
2. If the total number of aldermen is not divisible by two, the larger half will first retire.
3. Those who are to retire will be determined by ballot by the councillors at the time of the election of the aldermen.

By sect. 2, subs. (5), p. 53, it is provided that the law relating to members of administrative vestries shall apply to the councillors of the new boroughs, except as otherwise provided by or under this Act. Under the present law, as well by the Metropolis Management Acts as by those parts of the Local Government Act, 1894, which were made applicable to London, one-third of the members go out of office each year. But the method of determining which of the first members should retire in the first and second years is different under the Metropolis Management Act, 1855, from that which was provided by the Act of 1894. As the former arrangement (Metropolis Management Act, 1855, sect. 9) was exhausted in 1858 it may be regarded as obsolete, and the mode of selection provided by the Local Government Act, 1894, sect. 79, subs. (6), will presumably be adopted in the new boroughs. The procedure, therefore, as modified by the present sub-section, will be as follows:—

1. On the day named in the Order in Council (probably the 1st November, 1901 (see sect. 3, subs. 2, p. 56)), one-third of the councillors for each separate ward will retire.

2. The third who are then to retire will be those that were lowest on the poll in each respective ward.

3. The following year (namely, on the 1st November, 1902), the third next lowest on the poll will retire in like manner.

4. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter will be determined by ballot conducted under the direction of the council. See Appendix B. 6, note 69, p. 227.

Of course the Order will not come into operation where the Local Government Board have made an order for a triennial election under sect. 2, subs. (8), p. 53.

(*d*) For example, the Order may fix the date of the first meeting, provide for the election of a chairman pending the election of the mayor, lay down any necessary temporary rules of order or procedure, regulate the transfer of books, etc., from the overseers to the town clerk and from the outgoing auditors, and clerks to commissioners for libraries, baths and wash-houses, etc.

(*e*) Compare sect. 4, subs. (1), p. 57, and note (*h*) to that section, p. 60.

(*f*) Compare sect. 4, subs. (1), p. 57, and sect. 11, subs. (1), p. 89.

(*g*) The conditions regulating the right to be registered as an elector in a municipal borough outside London are given in sect. 9 of the Municipal Corporations Act, 1882, and the principal other enactments to be adapted by Order in Council under this subsection are contained in section 44 of the Local Government Act, 1894, in the Registration Acts, 1843, 1878, and 1885, together with the County Electors Act, 1888. Their effect is fully given in Appendix B. 4, pp. 212, *sqq.*

(*h*) The lists are revised between the 8th September and the 12th October—see County Electors Act, 1888, sect. 6, subs. (1).

(*i*) Compare sect. 3, subs. (1), p. 56. In subsequent years these duties will fall on the town clerk. See sect. 11, subs. (1), p. 89; and sect. 3, subs. (4), p. 57.

(*j*) *i.e.*, under sect. 1, p. 47, and sect. 2, subs. (2), p. 52. Adjustments may be rendered necessary by anything done under sect. 16, subs. (1) (*c*), p. 102, and by any alterations of the county area. But this will not apply to the lists of parliamentary electors. See sect. 31, subs. (3), p. 137.

(*k*) See sect. 3, subs. (1), p. 56, and note (*a*) to sect. 33, p. 140.

(*l*) Including not only the administrative vestries, but also the vestries of parishes forming the areas of district boards. See sect. 34, p. 142.

(*m*) Compare sect. 14, p. 98.

(*n*) Compare sect. 11, subs. (1), p. 89.

(*o*) That is, throughout the metropolis except the City, including any areas which may be taken in from outside counties, but excluding any areas now in the metropolis but which may be excluded from it by Order in Council under sect. 18, p. 113.

(*p*) It will thus be *possible* for vestries and district boards to



continue in existence for some time after they have ceased to have any members. For those bodies will not cease to exist until the "appointed day" (sect. 4, subs. 1, p. 57); and the appointed day will not necessarily be the day on which the first councillors come into office. And there is no provision enabling the new councillors to step into the shoes of the dislodged vestrymen and members of district boards in the interim.

(*g*) That is on the 13th July, 1899.

(*r*) Casual vacancies occurring within six months of the ordinary day of retirement are not filled up (Local Government Act, 1894, sect. 48, subs. 4).

**28. Provisional Orders and Proceedings of Local Government Board.**—(1) Sects. two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (38 and 39 Vict., c. 55) (*a*) shall apply to any Provisional Order made under this Act (*b*) as if it were a Provisional Order made under that Act, except that the expenses incidental to the Provisional Order shall be defrayed by the councils concerned in such proportions as the Local Government Board may determine (*c*).

(2) Sub-sections one and five of Section eighty-seven of the Local Government Act, 1888 (*d*), shall apply to any <sup>51-2 Vict., c. 41.</sup> proceedings of the Local Government Board under or for the purposes of this Act (*e*).

(3) Where the Local Government Board are authorised by this Act to determine any matter (*f*), it shall be at their option to determine the matter as arbitrators or otherwise (*g*), and, if they elect to determine the matter as arbitrators, the provisions of the Regulation of Railways Act, 1868 (*h*), <sup>31-2 Vict., c. 119.</sup> respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted, and in terms made applicable to the Local Government Board and the determination of matters under this Act.

(*a*) For these Sections see Appendix K., pp. 284-5.

(*b*) That is, to a Provisional Order for the transfer of powers under sect. 5, subss. (3), (4), p. 64.

(*c*) By sect. 298 of the Public Health Act, 1875, it is provided that the reasonable costs of any local Authority in respect of provisional orders are to be paid by that authority: but in



the present case (see last note) more than one authority will be concerned: hence the necessity for an apportionment of the costs.

(*d*) For these sub-sections see Appendix K., p. 286.

It will be seen that subs. (1) incorporates sects. 293 to 296 of the Public Health Act, 1875, which sections will be found in Appendix K., p. 286.

The effect of the present sub-section is to give to the Local Government Board powers in every case to hold local enquiries, either of their own motion or in response to local applications.

(*e*) That is to say, not only in respect of proposals for Provisional Orders but generally; *e.g.*, in case of a dispute between a borough and the London County Council as to a loan (sect. 4 subs. 1, p. 57); in settling any question of payment by the County Council to the council of a borough for the maintenance and repair of any highway (sect. 6, subs. (2), p. 135), in questions relating to the sale of land and the application of the proceeds (sect. 6 subs. (5), p. 73), in apportionments of expenses of executing powers and duties transferred otherwise than by Provisional Order (sect. 7 subs. (1), p. 81), in apportioning the costs of joint committees (sect. 8, subs. (4), p. 83), in any proposal for uniting parishes belonging to different unions (sect. 16, subs. 1 *c*, p. 103), or in dealing with proposals for altering wards (sect. 26, p. 126.)

(*f*) "*To determine any matter.*"—The exact scope of this expression is a little doubtful. Compare note (*c*) to sect. 26, p. 127.

(*g*) That is to say where there is a dispute or controversy, or a failure to agree, which the Local Government Board are by the Act empowered to settle finally, they may, at their discretion, assume the position of arbitrators between the parties (with the incidents stated in the remainder of the sub-section), or simply issue their decision on the question without any formalities or after inquiring into the facts in any manner they think fit.

(*h*) For these provisions see Appendix K., p. 287.

**29. Proceedings in Case of Doubts as to Transfer of Powers.**—If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to the council of any metropolitan borough, or any property is or is not vested in any such council (*a*), that question, without prejudice to any other mode of trying it (*b*), may, on the application of the council (*c*), be submitted for decision to the High Court in such summary manner (*d*) as, subject to any rules of court (*e*), may be directed by the court (*f*); and the court, after hearing such parties and taking such

evidence (if any) as it thinks just, shall decide the question (g).

(a) *Powers, duties, and liabilities transferred.*—By sect. 4, subs. (1), p. 57, all the powers and duties and liabilities of every elective vestry and district board (*subject to the provisions of the Act and of any scheme made thereunder*), including those under any local Act, will, as from the appointed day, be transferred to the council of the borough comprising the area concerned. And their property will also be similarly transferred. And by subs. (2) there will be a like transfer, *by scheme*, from any authorities now administering any adoptive Acts to the borough council. But subs. (3) introduces a *proviso*, whereby limitations or conditions in the exercise of certain classes of powers may be introduced *by scheme*, and such scheme must have regard to the circumstances mentioned in the proviso. The words and phrases italicised in the foregoing paragraph indicate possible grounds of “question” of the nature contemplated in this section, if in any case a dispute arises as to whether a particular transfer is prevented or conditioned, expressly or by implication, by any other provision in the Act, or by a scheme; or if it is thought that any scheme is *ultra vires* or irregular (whether because parties having a right to be heard have not been heard, or because “regard” has not been had to the proper circumstances, or for any other reason).

Similarly it is possible that questions may arise under the transfers provided for by sect. 5, p. 64, and by other sections.

In all such cases the intention of this section is to provide a summary method of settling the question, as a question of law, whether there has or has not been such transfer; the High Court, in order to arrive at a decision, having power to take evidence of fact.

Such questions may, perhaps, be expected to arise where any boundaries have been altered, or any parishes united or split up, or any areas added to or detached from the county. They may also occur in connexion with matters arising under sect. 23 (church affairs and charities).

(b) In many cases other modes of trying any question of powers or property would obviously exist. For example, where powers or proprietary rights were actually exercised, the question of their legality under the Act could be tested by action for damages, or by motion for injunction.

(c) Not on the application of the other party to the dispute. So that, unless the council consented to refer the question as here provided, the other party must avail himself or themselves of some other mode of trying the question.

(d) “*Summary manner.*”—That is to say without *nisi prius* proceedings, and perhaps without pleadings.

(e) *Rules of Court.*—It remains to be seen whether the High Court will frame special rules of court for this class of cases, by



anticipation, or will regulate the procedure by such rules of court as are already in force. Precisely similar provisions are contained in the Local Government Act, 1888, sect. 29, and in the Local Government Act, 1894, sect. 70, subs. (1); but in both these cases the application may be made not only by the county or district council, but by any local authority concerned.

(f) Presumably, when an application is filed, the court will give directions as to the manner of trial, unless all this has been provided for in general terms by rules of court; and the proceedings will take place accordingly.

(g) There does not seem to be any right of appeal, nor any jurisdiction in the High Court to give leave to appeal.

**30. Existing Officers.**—(1) Where the powers and duties of any authority are transferred by or under this Act to any borough council, the existing officers of that authority shall be transferred to and become the officers of that council (*a*). Any assistant overseers, rate collectors, and other officers employed in the performance of duties of overseers within a borough shall also be transferred to and become officers of the council for that borough. The council may abolish the office of any such officer whose office they may deem unnecessary (*b*); but any officer required to perform duties such as are not analogous, or which are an unreasonable addition to those which he is at present required to perform, may relinquish his office, and any officer so relinquishing his office, or whose office is abolished, shall be entitled to compensation under this Act (*c*).

(2) Subsections four and seven of Section eighty-  
 56-7 Vict., c. 73. one of the Local Government Act, 1894 (*d*), shall apply to the existing officers affected by this Act as if references in those subsections to the district council were references to the borough council, and all expenses incurred by the borough council in pursuance of those subsections shall be paid out of the general rate (*e*); provided that the borough council may, if it thinks fit, take into account continuous service under any authority or authorities to which this Act refers, in order to calculate the total period of service of any officer entitled to compensation under this Act.

(3) For the purposes of this section "existing officers"



shall mean officers holding office on the twenty-fourth day of February, one thousand eight hundred and ninety-nine, and also at the passing of this Act (*f*).

(4) A scheme under this Act (*g*) may make such provisions as may appear necessary for carrying this section into effect, and, if necessary, for determining the authority to whom any existing officer is to be transferred (*h*), and for applying the provisions of this section to any officer who suffers pecuniary loss by reason of anything in or done under this Act (*i*), although he is not transferred to a borough council (*j*), and although he is not an officer of an authority whose powers and duties are transferred by or under this Act (*k*), and for determining in any such case the fund out of which compensation is to be paid.

(a) The provisions for existing officers made by the Local Government Act, 1888, are contained in sects. 118 to 120 of that Act; and those made by the Local Government Act, 1894, are contained in sect. 81 of that Act. 51-2 Vict., c. 41.  
56-7 Vict., c. 73.

(b) It can scarcely be doubted that many offices will become unnecessary, and will, if not immediately, as soon as convenient, be abolished. For the Act substitutes twenty-eight "administrative" authorities for forty-two, and although the staffs of the former will in some instances be larger than those of the latter, there will naturally be, on the whole, an economy of number. Again, about forty bodies administering adoptive Acts, and forty-four elective but non-administrative vestries, will be merged in the borough councils, and a large number of the duties performed by the officers of these bodies will become obsolete. Further reductions of such officials as assistant-overseers and rate-collectors will result from the abolition of individual overseers (sect. 11, subs. (1), p. 89; sect. 27, subs. (4), p. 128), and from the consolidation of rates (sect. 10, p. 87).

(c) The provisions relating to compensation are those of sect. 120 of the Local Government Act, 1888, which are applied to the new boroughs, as will be seen in the next note. For sect. 120 see Appendix C. IV., note 6, p. 233. It provides that the council, in assessing the compensation to be paid to any acting officer, is to have regard "to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act, or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case." The compensation is not to exceed

"the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office."

The Superannuation Acts, 1834 to 1892, contain the provisions and provide for the rules relating to pensions. The maximum payment is two-thirds of the salary and emoluments of the office abolished. (Superannuation Act, 1859, sect. 7.)

22 Vict., c. 26.

The officer entitled must deliver a claim setting out the receipts and expenses of his office for the past five years, and verified by a statutory declaration.

There is a right of appeal to the Treasury on the one hand by the officer against a refusal to compensate or to have the amount increased; and on the other hand, if not less than one-third of the members of the council sign a protest against the amount as being excessive, then by any one of such members to have the amount reduced or to have compensation refused.

The compensation is liable to suspension, in whole or in part, if and while the officer holds any office under the same or any other borough council or by virtue of the Act, so that he shall not benefit both by the compensation and by the emoluments of the office he holds to a greater extent than if he were not receiving compensation.

(*d*) For these enactments see Appendix C., p. 233. Subs. 7 of sect. 81 applies sect. 120 of the Local Government Act, 1888, relating to compensation. The substance of the provisions of this last section is given in the preceding note.

(*e*) All rates will, broadly speaking, be levied as the general rate. See sect. 10, subs. (2), p. 87.

(*f*) That is, on the 13th July, 1899.

(*g*) Sect. 15, subs. (1), p. 99, and sect. 16, subs. (1), p. 102.

(*h*) For example, where the detached portions of parishes or counties are removed from those parishes or counties, or where boundaries are altered, it may possibly be necessary to make such determination.

(*i*) The Local Government Act, 1888, sect. 120, subs. (1)—which, as already seen, is applied to the metropolitan boroughs under the present Act, provides that every existing officer who . . . suffers any direct pecuniary loss . . . shall be entitled to compensation.

(*j*) This possibility may arise where any place is excluded from the county of London, and in other ways.

(*k*) As, perhaps, an officer of South Hornsey provided only the detached part of that district were included in the county.

**31. Construction of Acts, and Savings.**—(1) Where any Act passed before the passing of this Act contains expressions referring to a borough, those expressions shall not be construed as referring to a metropolitan borough created by this Act, unless applied thereto



by or under the provisions of this Act (*a*), or of any subsequent enactment.

(2) Any enactment in any Act, whether general or local, referring to an authority whose powers or duties are transferred by or under this Act to a borough council shall be construed with the necessary modifications, including the substitution of the borough council for that authority, and of the borough for the area of that authority (*b*).

(3) Nothing in or done under this Act shall be construed as altering the limits of any parliamentary borough or parliamentary county (*c*).

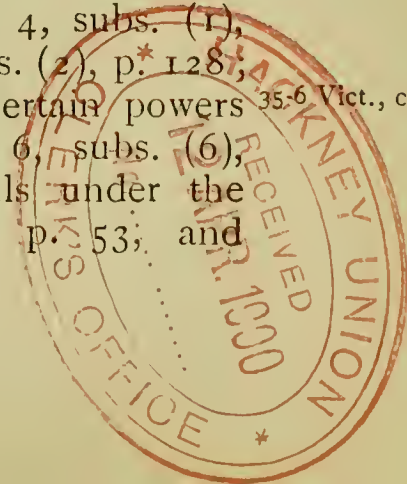
(4) Except so far as the areas of parishes and sanitary districts are altered by or under this Act, nothing in this Act shall affect the London (Equalisation of Rates) Act, 57-8 Vict., c. 53. 1894 (*d*).

(5) Nothing in this Act, or in any order or scheme under this Act, shall abridge, alter, or affect the powers, rights, duties, or jurisdiction of the School Board for London over the area which for the time being constitutes the administrative county of London (*e*).

(*a*) The Acts mainly referring to boroughs, their constitution and administration, are the Municipal Corporations Act—the principal Act now in force being that of 1882. The statute book, however, contains a large number of other enactments in which references are made to boroughs, including the Public Health Act, 1875; the Local Loans Act, 1875; the Registration Acts, the Corrupt Practices Acts, the Local Government Acts, 1888 and 1894, &c. 45-6 Vict., c. 50.

The present Act, expressly or by implication, applies (with or without modification) many provisions of other Acts relative to boroughs to the boroughs it creates, while nevertheless unmistakably distinguishing them from municipal boroughs under the Municipal Corporations Act, 1882, and also from boroughs or quasi-boroughs not under that Act.

Thus the provisions of the L. G. A., 1888, relating to the chairman and alderman of a county council are applied to the mayor and aldermen (sect. 2, subs. 4, p. 52), as is sect. 46 of the L. G. A., 1894, relating to disqualifications (sect. 2, subs. 5, p. 53); the Registration Acts are applied by sect. 4, subs. (1), p. 57; sect. 11, subs. (1), p. 89; and sect. 27, subs. (2), p. 128; the Adoptive Acts by sect. 4, subs. (4), p. 58; certain powers given by the Borough Funds Act, 1872, by sect. 6, subs. (6), p. 74; certain of the powers of district councils under the L. G. A., 1894, impliedly by sect. 2, subs. (5), p. 53; and 35-6 Vict., c. 91.





expressly by sect. 8, subs. (4), p. 83; enactments relating to the poor rate by sect. 10, subs. (2), p. 87; powers and duties of the Local Government Board as to Provisional Orders, local inquiries, and arbitrations by sect. 5, subss. (3) and (4), p. 64, sect. 6, subs. (2), p. 73, sect. 15, subs. (3), p. 99, sect. 26, p. 126, sect. 28, p. 131, and other provisions; Part XI. of the M. C. A., 1882, with respect to adjustments by sect. 16, subs. (1) (*b*), and subs. (3), pp. 102 and 103; alterations of parishes and wards under the L. G. Acts by sect. 16, subs. (1) (*c*), p. 102; and the provisions of the L. G. Acts as to existing officers by sect. 30, p. 134.

(*b*) This is to be read along with the proviso in sect. 4, subs. (3), p. 58.

(*c*) Under the L. G. A., 1888, the divisions of the metropolis for county council purposes have been identical with the parliamentary divisions, but they will not in all cases be so under the present Act. See sect. 18, subss. (2) (3) (4), p. 113, and sect. 20, subs. (1), p. 117.

(*d*) *Equalisation of Rates Act*, 1894.—This Act, the object of which, broadly stated, is to equalise in some degree the burden of rating over the metropolis by making the richer rateable areas contribute towards certain expenses of the poorer, enacts that each year the London County Council are to form a fund called the Equalisation Fund. The fund is formed by a uniform rate of sixpence in the pound assessed on every *parish* according to *rateable value*. It is distributed over every *sanitary district* by grants in proportion to the *population*; meaning by a “sanitary district” the area of each of the administrative vestries and district boards in Schedules A. and B. to the Metropolis Management Acts, as subsequently amended, and the Woolwich Local Board; and in the extra-parochial places named in Schedule C., the guardians or overseers acting for such place. See London (Equalisation of Rates) Act, 1894, sect. 4, subs. (1), and Public Health (London) Act, 1891, sect. 99. Where a sanitary district includes more than one parish, the grant for that district is apportioned among the parishes in proportion to their populations, respectively.

Thus, while the basis of contribution is rateable value, the basis of relief by grant is population. Hence the richer parishes (*i.e.*, those of high rateable value in proportion to population) are liable to contribute more than they are entitled to receive, while in the poorer ones the converse is the case. It is only the difference between the two aggregate amounts as determined half-yearly by the County Council which is paid to or out of the fund, as the case may be.

For example, in the year 1897-8, the rich parish of St. George, Hanover Square, *paid* to the fund a net contribution equivalent to a rate of 4·06d. in the £ on its rateable value; while the poor parish of Bethnal Green *received* out of the fund a net grant

57-8 Vict., c. 53.

54-5 Vict., c. 76.

equivalent to a relief from rate of 7·58d. in the £ on its rateable value. The figures are :—

|                               | Population.                                       | Rateable value.   |  |                               |  |
|-------------------------------|---|---|--|-------------------------------|--|
| St. George,<br>Hanover Square | 79,446  | £1,981,679  |  |                               |  |
|                               | Amount receiv-<br>able on basis of<br>population. | Amount payable<br>on basis of<br>rateable value<br>at 6d. |  | Balance to<br><i>pay.</i>     |  |
|                               | £ s. d.   | £ s. d.   |  | £ s. d.                       |  |
|                               | 16,033 7 10                                       | 49,541 19 6   |  | 33,508 11 8                   |  |
| Bethnal Green...              | 127,141   | £453,520  |  |                               |  |
|                               | Amount receiv-<br>able on basis of<br>population. | Amount payable<br>on basis of<br>rateable value<br>at 6d. |  | Balance to<br><i>receive.</i> |  |
|                               | £ s. d.   | £ s. d.   |  | £ s. d.                       |  |
|                               | 25,658 19 2                                       | 11,338 0 0  |  | 14,320 19 2                   |  |

Moneys received by a parish under the Equalisation of Rates Act are to be applied in defraying expenses incurred under the Public Health (London) Act, 1891; if the grant exceeds these expenses, then in defraying the expenses in respect of lighting; and, if there is still a surplus, then in respect of streets, etc.: London (Equalisation of Rates) Act, 1894, sect. 1, subs. (6). Thus the grants are in relief of the local general rate as distinct from the poor rate. Under the present Act, the operation of the Equalisation Act will go on exactly as before in those boroughs of single parishes which occupy the areas of administrative vestries; except that, should the areas of Chelsea, Kensington, Lambeth, or Paddington be altered under sect. 18, subs. (1), p. 113, the equalisation will apply to the new boroughs as altered. Deptford (St. Paul), a new borough cut out of the area of the Greenwich District Board, will henceforth be dealt with separately. Camberwell may be affected by what is done with Penge, and possibly with Streatham detached; and there are a few other disturbances which may occur. Poplar and Wandsworth remain in area as before, except that to the latter will be added Mitcham detached, which will presumably become part of the parish of Tooting Graveney. In the other boroughs the amounts payable by and to the several parishes will have to be determined in accordance with the new parochial and administrative areas and populations. Any place detached from the county of London (*e.g.*, Clerkenwell detached, Putney detached, and possibly Penge) will cease to be under the operation of the Act, while any area added to the county (*e.g.*, Hornsey detached and Mitcham detached) will for the first time come within its scope. See further, note (o) to sect. 11, p. 95.

(e) The only effects of the Act as regards the London School Board will be: first, that where by alterations of boundaries or re-distribution of detached parts, it may possibly be considered



necessary to make a corresponding alteration in the school board electoral areas; and secondly, that any area cut out of the county of London will cease to be within the jurisdiction of the London School Board, while any place brought into the county will for the first time fall under that jurisdiction. The necessary re-adjustment of the electoral divisions will be effected by scheme. Sect. 16, subs. (1) (f), p. 103.

**32. Borough Councils not to Alienate Open Spaces.**—Nothing in this Act shall authorise any borough council to alienate any recreation ground or other open space dedicated to the use of the public, or any land held on trusts which prohibit building thereon (a).

(a) This provision modifies and restricts the operation of sect. 6, subs. (5), p. 73. Moreover, the general powers which vestries and district boards possessed to alienate land under the Metropolis Management Act, 1885, sect. 154, are taken away from the new boroughs by the repealing clause of the present Act, sect. 35, subs. (2), p. 145, and Schedule III., p. 154. The power to let land, however, is not withdrawn.

**33. Appointed Day and Transitory Provisions.**—(1) For the purposes of this Act the appointed day shall be the day on which the members of the borough councils first elected under this Act come into office (a), or such other day not being more than six months earlier or later, as the Lord President of the Council may appoint, either generally or with reference to any particular provision of this Act (b), and different days (c) may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections, or for different boroughs (d).

(2) Subject to the provisions of any scheme under this Act (e), and to such adaptations as may be made by Order in Council (f), Sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions) (g) shall apply in the case of boroughs and borough councils under this Act.

(a) The precise effect of this expression is not free from doubt. There is no express provision in the Act as to when the first members are to "come into office," although the expression is used in the important subs. (4) of sect. 27, p. 128, which



see, and note (p) to that section, p. 130. The "members" of a council, of course, include the mayor and aldermen, and these will not be elected until some time after the councillors. The first elections are provided for (not without vagueness) by sect. 3, subs. (1), p. 56; but it is suggested that the members will not "come into office" until after they have accepted office and subscribed the necessary declaration under the Municipal Corporations Act, 1882, sect. 34. 45-6 Vict., c. 50.

The definition of the "appointed day" in the Local Government Act, 1888 (sect. 109) was much clearer; and that contained in sect. 84, subs. (4), of the Local Government Act, 1894, left little room for ambiguity. This latter section also provided (subs. 2) for the time of coming into office of persons elected.

(b) This provision may be used to avoid the anomaly referred to in note (p) to sect. 27, p. 274, and to deal with any practical difficulties in the application of the many provisions of the Act which are to take effect on, or as from, the appointed day.

(c) But within the six months' limit.

(d) The circumstances of different boroughs with regard to transfers of powers, financial and other adjustments will probably differ very considerably. Thus where the effect of the Act is little more than to change a vestry area into a borough, the alterations it provides can be speedily made, but in other cases, especially where it is proposed to alter areas or local jurisdictions, local inquiries and other investigations may be necessary.

(e) See note (a) to sect. 15, p. 100; and sect. 16 (1), p. 102. It is not possible to forecast what modifications, if any, in the application of the transitory provisions of the Local Government Act, 1894, will occur by reason of any schemes made. The powers in relation to the making of schemes, however, are so multifarious, and their exercise may occasion so many displacements of powers and liabilities, that the saving here made may turn out to be needed. For example, a scheme under the Act may, under some circumstances (sect. 30, subs. 4, p. 135) determine the fund out of which compensation is to be paid to an existing officer. This might affect the persons to be sued for such compensation, if occasion arose. Other instances might be suggested.

(f) See note (a) to sect. 15, p. 100, and the foregoing note.

(g) For these sections see Appendix L., p. 289. Their objects are—

1. To maintain the validity of rates and precepts made before the appointed day.
2. To secure the audit of outstanding accounts.
3. To maintain pending legal proceedings.
4. To continue the validity of existing valuation lists.
5. To continue the corporate existence of the local authorities affected.
6. To maintain the validity of all existing securities, and all liabilities for debts and obligations.

7. To continue existing bye-laws and regulations.
8. To save all pending contracts and rights of action or proceeding.

**34. Definitions.**—In this Act, unless the context otherwise requires:—

The expression “administrative vestry” (*a*) means a vestry having the powers of a vestry specified in Schedule A to the Metropolis Management Act, 1855; and the expression “elective vestry” (*b*), means any vestry elected under the Metropolis Management Act, 1855:

The expression “rateable value” (*c*) shall include the value of Government property upon which a contribution in lieu of rates is paid (*d*):

The expressions “powers,” “duties,” “property,” “liabilities,” and “powers, duties, and liabilities” (*e*), have respectively the same meanings as in the Local Government Act, 1888 (*f*):

The expression “adoptive Acts” (*g*) means the Baths and Washhouses Acts, 1846 to 1896, the Burial Acts, 1852 to 1885, and the Public Libraries Acts, 1892 and 1893 (*h*).

The expression “local Act” (*i*) includes a provisional order confirmed by an Act, and the Act confirming the order; and the expression “enactment” (*j*) includes a provision of any such order.

(*a*) This is a new expression, imitated probably from the equally artificial but convenient term, “administrative county,” in the L. G. A., 1888. The expression occurs in sect. 2, subs. (5), p. 53: Law relating to . . . administrative vestries . . . to apply to the borough councils under this Act; and in sect. 19, subs. (2), p. 116: Woolwich: Act to apply as if its local board were an administrative vestry. Administrative vestries are distinguished from vestries in Schedule B to the Metropolis Management Act, which, though not themselves administrative, elected the members of the administrative district boards in that schedule. Both kinds of vestries are elective (see next note).

(*b*) This is also a new expression. As stated in the last note, every administrative vestry is elective, but the converse is not true, hence the provisions relating to elective vestries apply to the administrative. The expression occurs in sect. 4, subs. (1), p. 57—All elective vestries in London (outside the



City) to cease to exist on the appointed day ; and in sect. 27, subs. (4), p. 128—Members of elective vestries to go out of office on the day on which the first borough councillors come into office.

(*c*) This expression occurs in sect. 2, subs. (2), p. 52—In fixing the number of wards, and the number of councillors to each ward, regard is to be had to rateable value as well as to population ; sect. 10, subs. (3), p. 87—Expenses of boroughs comprising several parishes to be apportioned among the parishes in proportion to their rateable value ; sect. 11, subs. (3), p. 89—Demand notes for rates to state the rateable value of the premises. For an explanation of the meaning of rateable value, see note (*l*) to sect. 11, p. 94.

(*d*) See note (*i*) to sect. 16, p. 108.

(*e*) See sect. 4, subs. (1), p. 57—Transfer of, from vestries and district boards, to borough councils ; sect. 4, subs. (2), p. 58—Transfer of, from commissioners and boards under adoptive Acts to borough councils ; sect. 29, p. 132—Proceedings in cases of doubt as to transfer of “Powers and duties” ; Extent of, sect. 4, subs. (3), p. 58—Transfer of certain powers and duties from the London County Council to borough councils ; sect. 5, subs. (1), p. 64, and Sched. II., part 1, p. 149—Transfer to councils of power and duty of maintaining main roads ; sect. 6, subs. (1), p. 73—Powers and duties of councils as to dairies, slaughter-houses, &c. ; sect. 6, subs. (4), p. 73—Provision for expenses incidental to transfer of powers and duties ; sect. 7, p. 81—Powers and duties of a vestry which relate to the church not to be transferred ; sect. 23, subs. (1), p. 120—Construction of enactments referring to authorities whose powers and duties are transferred ; sect. 31, subs. (2), p. 137—Saving of the powers and duties of the London School Board ; sect. 31, subs. (5), p. 137—Powers exercisable by borough councils co-ordinately with the county council ; sect. 5, subs. (2), p. 64, and Sched. II., part 2, p. 150—Optional transfer of powers from or to the County Council ; sect. 5, subs. (3) and (4), p. 64—Power to close streets not to require sanction of County Council ; sect. 6, subs. (3), p. 73—Powers of promoting and opposing bills, and of prosecuting or defending legal proceedings ; sect. 6, subs. (6), p. 74—Power of the Corporation in Southwark, and of the Dean and Chapter in Westminster ; sect. 16, subs. (3), p. 104—Powers of the Woolwich Borough Council to carry on a market ; sect. 19, subs. (3), p. 116—Powers of Charity Commissioners ; sect. 23, subs. (5), p. 121—Powers and duties of the town clerk as to voters and jury lists ; sect. 11, subs. (1), p. 89—Transfer of existing officers on transfer of powers and duties, sect. 30, subs. (1), p. 134 ; Transfer of property and liabilities of Penge by scheme, sect. 20, subs. (2), p. 117.

(*f*) The expressions are defined in sect. 100 of the L.G.A., 1888. Briefly, it is provided by that section that “property” includes



all property, real and personal, and all legal and equitable rights and interests therein, including things in actions and books and documents; "powers" includes rights, jurisdiction, capacities, privileges, and immunities; "duties" includes responsibilities and obligations; "liabilities" includes liability to any proceeding for enforcing any duty, or punishing for breach of any duty, and also debts and liabilities, whether accrued due at the date of the transfer or subsequently accruing; "powers, duties, and liabilities" includes powers, duties, and liabilities arising under local Acts.

(g) "*Adoptive Acts*."—Borough council to be the authority for administering (sect. 4, subs. (2), p. 58); may be adopted in a borough (sect. 4, subs. (4), *ib.*); rate for expenses of, to be levied as item of general rate (sect. 10, subs. (4), p. 87). A scheme may provide for maintenance of libraries, baths, or washhouses maintained under the Adoptive Acts (sect. 16, subs. (1) (*d*), p. 206); in detached parts of a parish commissioners may report specially as to anything done under Adoptive Acts (sect. 18, subs. (1), p. 113).

(h) The following are the Adoptive Acts now in operation:—

*Baths and Washhouses Acts*, 1846 to 1896, viz.:—

- 9-10 Vict., c. 74 (1846).
- 10-11 Vict., c. 61 (1847).
- 41 Vict., c. 14 (1878).
- 45-46 Vict., c. 30 (1882).
- 59-60 Vict., c. 59 (1896).\*

*Burial Acts*, 1852 to 1885, viz.:—

- 15-16 Vict., c. 85 (1852).
- 16-17 Vict., c. 134 (1853).
- 17-18 Vict., c. 87 (1854).
- 18-19 Vict., c. 128 (1855).
- 20-21 Vict., c. 35 (1857), (City of London).
- 20-21 Vict., c. 81 (1857).
- 22 Vict., c. 1 (1859).
- 23-24 Vict., c. 64 (1860).
- 25-26 Vict., c. 100 (1862).
- 34-35 Vict., c. 33 (1871).
- 43-44 Vict., c. 41 (1880).
- 44-45 Vict., c. 2 (1881).
- 48-49 Vict., c. 21 (1885)—Burial Boards (contested elections).

*Public Libraries Acts*, 1892 and 1893, viz.:—

- 55-6 Vict., c. 53 (1892).
- 56 Vict., c. 11 (1893).

There is also the Libraries Offences Act, 1898 (61-62 Vict., c. 53).

See Appendix F., pp. 269 *sqq.*

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\* To these may be added the Baths and Washhouses Act, 1899 (62 and 63 Vict., c. 29), which does not apply to London.

(i) "*Local Act.*"—This expression occurs in sect. 4, subs. (1), p. 57—transfer of powers of vestries and district boards under local Acts to borough councils; sect. 4, subs. (3), p. 58—powers under local Acts to be exercised as provided by scheme—sect. 10, subs. (4), p. 87—expenses incurred under local Act not extending to whole borough to be levied as an item of general rate over area to which the local Act extends;—local Acts may be repealed by scheme (sect. 16, subs. (1) (g), p. 103); governors or trustees of the poor under a local Act are to be deemed a local authority for the purposes of Part XI. of the Municipal Corporations Act, 1882 (sect. 16, subs. (3), p. 104).

(j) Enactments in Sched. II., part 1, p. 149; transfer of powers in (sect. 5, subs. (1), p. 64); enactments in Sched. II., part 2, p. 150; co-ordinate exercise of powers in (sect. 5, subs. (2), p. 64); matters required by any enactment to be stated in demand note for rates to be so stated (sect. 11, subs. (3) (f), p. 90); enactments relating to audit of accounts of the London County Council to apply to audit of accounts of borough councils (sect. 14, p. 98); Woolwich scheme to provide for repeal of enactments not applying to London, and for the application of enactments applying to London (sect. 19, subs. (1), p. 116); the converse as to Penge (sect. 20, subs. (2), p. 117); enactments relating to registration to be adapted by Order in Council (sect. 27, subs. (2), p. 128); enactments as to Board of Trade arbitrations to apply to Local Government Board arbitrations (sect. 28, subs. (3), p. 131); enactments repealed (sect. 35, subs. (2), *infra*, and Sched III., p. 154).

**35. Short Title and Repeal.**—(1) This Act may be cited as the London Government Act, 1899.

(2) As from the appointed day (a) the enactments mentioned in the Third Schedule to this Act shall be repealed to the extent in the third column of that schedule mentioned (b).

(a) See sect. 33, subs. (1), p. 140.

(b) With this, as with every statutory provision for repeal, must be read sect. 38 of the Interpretation Act, 1889. The effect of that section is, first, where repealed provisions are re-enacted, with or without modification, references in any other Act to the provisions so repealed are to be construed as references to the provisions so re-enacted; and secondly, the repeal of any provision is not, unless the contrary intention appears, to revive anything not in force at the time of the repeal, nor to affect the previous operation of the repealed enactment, nor any right, liability or penalty under the repealed enactment, nor any investigation, proceeding, or remedy under the same.

52-3 Vict., c. 63.

## SCHEDULES.

Section 1.

## FIRST SCHEDULE.

Areas which are to be boroughs. The parishes of

|                          |                          |                          |
|--------------------------|--------------------------|--------------------------|
| Battersea.               | Hackney.                 | Lambeth.                 |
| Bethnal Green.           | Hammersmith.             | Paddington ( <i>d</i> ). |
| Camberwell ( <i>a</i> ). | Hampstead.               | St. Marylebone.          |
| Chelsea ( <i>b</i> ).    | Islington.               | St. Pancras.             |
| Fulham.                  | Kensington ( <i>c</i> ). | Shoreditch.              |

The area consisting of the parishes of Mile End Old Town and St. George's-in-the-East, and the districts of the Limehouse and Whitechapel Boards of Works, including the Tower of London and the liberties thereof (*e*).

The district of the Poplar Board of Works (*f*).

The district of the Wandsworth Board of Works (*g*).

The area consisting of the parishes of St. George the Martyr, Christchurch, Southwark, St. Saviour, Southwark, and Newington (*h*).

The area consisting of the parishes of Rotherhithe, Bermondsey, Horselydown, and St. Olave and St. Thomas, Southwark (*i*).

The area of the Parliamentary division of Holborn (*j*).

The area consisting of the Parliamentary divisions of East and Central Finsbury (*k*).

The area of the Parliamentary borough of Deptford (*l*).

The area of the Parliamentary borough of Greenwich (*m*).

The area of the Parliamentary borough of Lewisham (*n*).

The area of the Parliamentary borough of Woolwich (*o*).

The area of the ancient Parliamentary borough of Westminster, comprising the parishes of St. Margaret and St. John, Westminster, the parish of St. George, Hanover Square, the parish of St. James, Westminster, the parish of St. Martin-in-the-Fields, and the district of the Strand Board of Works, and including the close of the Collegiate



Church of St. Peter, Westminster, and the Liberty of the Rolls (*p*).

The area consisting of the parish of Stoke Newington and of the urban district of South Hornsey, or so much thereof as may be incorporated with the County of London under the Act (*q*).

(*a*) *Camberwell* may have Penge annexed to it—sect. 20, subs. (1), p. 117.

(*b*) *Chelsea* will, by Order in Council, lose Kensal Town, which is wholly detached from it, and which will be annexed to Kensington or Paddington, or divided between them, unless this is stated by the commissioners to be impracticable in a special report to Parliament—sect. 18, subs. (1), p. 113.

(*c*) The whole or part of Kensal Town may be added to *Kensington*—sect. 18, subs. (1), p. 113; as may also Kensington Palace—sect. 21, p. 119.

(*d*) The whole or part of Kensal Town may be added to *Paddington*—sect. 18, subs. (1), p. 113.

(*e*) An "appropriate name" will have to be found for this borough under sect. 27, subs. (1) (*a*), p. 127. See note (*b*) to that section, p. 128. Mile End Old Town and St. George's-in-the-East have hitherto been separate administrative vestries. The district of the Limehouse Board of Works includes the parishes of Shadwell, Wapping, and Limehouse, and the hamlet of Ratcliff. The district of the Whitechapel Board includes the parishes of Whitechapel (St. Mary), with the Minories, Christchurch, Spitalfields, and St. Botolph Without, Aldgate (including Old Tower Without and St. Katherine), Mile End New Town, and the Liberties of Norton Folgate and Old Artillery Ground. To these are added the Tower of London, which has hitherto been entirely extra-parochial. See note (*a*) to sect. 17, p. 112.

(*f*) *Poplar* includes the parishes of Poplar, Bromley, and Bow.

(*g*) *Wandsworth* includes the parishes of Clapham, Tooting Graveney, Putney, Streatham, and Wandsworth. Part of the parish of Clapham is detached, and might possibly be joined to Battersea, but as the detached part is also contiguous to Streatham it will probably remain in the borough of Wandsworth. Part of Streatham also is detached, and being surrounded by Lambeth and Camberwell, will be dealt with under sect. 18, subs. (1), p. 113. Wandsworth will also, subject to the special report to Parliament, take in Mitcham detached from the county of Surrey under sect. 18, subs. (2), p. 113.

(*h*) A name will have to be given to this borough under sect. 27, subs. (1) (*a*), p. 127. Of the four parishes comprised in it, two, namely, Newington and St. George the Martyr, have hitherto been administrative vestries, while the other two constituted the district of St. Saviour's Board of Works.

(i) This borough will also have to be named. Bermondsey and Rotherhithe have heretofore been administrative vestries, while Horselydown and the united parishes of St. Olave and St. Thomas formed the district of St. Olave's Board of Works.

(j) *Holborn* will include the parishes of St. Giles-in-the-Fields and St. George, Bloomsbury (being the area of St. Giles' Board of Works), the united parishes of St. Andrew-above-Bars and St. George the Martyr and Saffron Hill (which have hitherto been part of the district of the Holborn Board of Works), and the extra-parochial places of Gray's Inn, Lincoln's Inn, Furnival's Inn, and Staple Inn. Some few houses in Furnival's Inn and Saffron Hill are in the City sanitary district.

(k) *Finsbury* will embrace the parishes of St. Luke and Clerkenwell (each of which has heretofore been an administrative vestry), St. Sepulchre, and Glasshouse Yard (from the Holborn Board of Works district), and the extra-parochial place of the Charterhouse. A few houses in Glasshouse Yard are within the City sanitary district.

(l) *Deptford* will consist of the single parish of St. Paul, Deptford, hitherto part of the Greenwich Board's district.

(m) *Greenwich* will embrace the parishes of Greenwich and St. Nicholas, Deptford (previously in the district of the Greenwich Board of Works), and those of Charlton and Kidbrooke (previously in the Lee district). A small part of Kidbrooke is detached from the rest, but is still bordered for the most part by the same borough.

(n) *Lewisham* will comprise the parishes of Lewisham and Lee, each of which has heretofore formed part of the district board with the corresponding name. Penge (heretofore in the area of the Lewisham Board) may be added to Lewisham.

(o) *Woolwich* will be made up of Woolwich (hitherto administered by the Woolwich Local Board), Plumstead, one of the administrative vestries, and Eltham, one of the parishes hitherto in the district of the Lee Board of Works.

(p) The parishes comprising the borough of *Westminster* are St. Margaret and St. John (of which the united vestries have heretofore been an administrative vestry), St. George, Hanover Square, St. James', Westminster, and St. Martin-in-the-Fields (each of them hitherto an administrative vestry), and the district of the Strand Board of Works (embracing St. Anne, St. Clement Danes, St. Mary-le-Strand, St. Paul, Covent Garden, the Precinct of the Savoy and the Liberty of the Rolls); and also the extra-parochial place of the Close of St. Peter. A small part of St. Clement Danes is detached from its main portion, but is still surrounded by other parts of the borough area. The hamlet of Knightsbridge, in St. Margaret and St. John, is detached from those parishes, but is to be left untouched by the express provisions of sect. 18, subs. (1), p. 113. Kensington Palace is also a detached part, and power is given by sect. 21, p. 119, to transfer it by Order in Council to Kensington. A portion of the land of Hyde Park is also in Westminster.



Since the passing of the Act, it has been semi-officially announced that "as soon as the necessary arrangements under the London Government Act have been completed, there shall be confirmed to the borough of Westminster, as constituted under that Act, the title of City, originally conferred upon Westminster by King Henry the Eighth."

(*q*) *Stoke Newington* will embrace the parish of Stoke Newington, heretofore an administrative vestry, and Hornsey detached, or the whole of South Hornsey urban district, if this area be added to the county of London under sect. 18, subs. (3), p. 113.

## SECOND SCHEDULE.

### PART I.

Section 5 (1).

#### MINOR POWERS AND DUTIES TO BE TRANSFERRED FROM COUNTY COUNCIL.

| Powers and Duties Transferred.  | Conditions of Transfer.   |
|---|---|
| Power under section eighty-four of the London Building Act, 1894 ( <i>a</i> ), to license the setting up of wooden structures, and power to take proceedings for default in obtaining or observing the conditions of a licence under that section ( <i>b</i> ). |   |
| Powers under section one hundred and thirty-four of the London Building Act, 1894 ( <i>a</i> ), in relation to the removal of unauthorised sky signs ( <i>c</i> ).  | Subject in case of default to provisions of the Public Health (London) Act, 1891 ( <i>d</i> ), as if the default were a default under that Act ( <i>e</i> ).  |
| Powers under sections one hundred and ninety-nine of the London Building Act, 1894 ( <i>a</i> ), which section relates to the removal of obstructions in streets ( <i>f</i> ).  |   |
| Powers under section twenty-eight of the Public Health (London) Act, 1891 ( <i>g</i> ), of registering dairymen ( <i>h</i> ).   | Subject to the power of the London County Council to make bye-laws ( <i>i</i> ), and in case of default to the provisions of the Public Health (London) Act, 1891 ( <i>d</i> ), as if the default were a default under that Act ( <i>e</i> ). |



(a) 57 and 58 Vict., c. ccxiii. For sects. 84, 134, and 199, and the other sections of the Local Government Act, 1894, involved in these provisions, see Appendix D. 4, p. 242.

(b) The section prohibits the setting up of wooden structures (the exemptions and exceptions excepted, as to which see Appendix D. 4, *post.*, p. 242) without having first obtained a license. And power is given by sect. 200 to proceed summarily for penalties. It is further provided by the London Building (Amendment) Act, 1898 (61 and 62 Vict., c. cxxxvii.), that in addition to imposing a penalty not exceeding forty shillings for every offence, the court may make a demolition order or an order to comply with any conditions contained in a license.

(c) The section gives power to take proceedings for the taking down and removal of any sky-sign as defined by the Act; and if an order of a petty sessional court has been obtained for that purpose and the sky-sign is not removed within the time fixed by the order, the council may themselves remove the same and charge their expenses upon the owner.

(d) 54 and 55 Vict., c. 76, sects. 100, 101. See Appendix M., p. 292.

(e) See note (c) to sect. 5, p. 66.

(f) Sect. 199 prohibits the erection or placing, without lawful authority, of any obstruction or encroachment upon, over, or under any street, or the interference with any street so as to impede traffic; and power is given to the council, after two days' notice, to demolish or remove any such obstruction or encroachment and to recover their expenses summarily.

(g) 54 and 55 Vict., c. 76. See note (b) to sect. 5, p. 64.

(h) See note (b) to sect. 5, p. 64.

(i) The County Council will still have power to make byelaws under orders made by the Local Government Board pursuant to sect. 28 of the Public Health (London) Act, 1891. See note (b) to sect. 5, p. 64.

## PART II.

### POWERS OF COUNTY COUNCIL TO BE EXERCISED ALSO BY BOROUGH COUNCILS.

| Section 5 (2).            | Powers Exercisable.   | Conditions of Exercise.  |
|---------------------------|---|--|
| 57 & 58 Vict., c. ccxiii. | Power under section one hundred and seventy (a) of the London Building Act, 1894, which section relates to the demolition of buildings in case of the conviction for an offence against the Act, or bye-laws made under it (b). | The power to be exercised only where the borough council have obtained the conviction (c). |

| Powers Exercisable.  | Conditions of Exercise.  |
|--|--|
| Power to take proceedings in respect of timber or other articles piled, stacked, or stored in contravention of section one hundred and ninety-seven ( <i>a</i> ) or section two hundred (11) ( <i>h</i> ) of the London Building Act, 1894 ( <i>d</i> ). | The power to be exercised only within the borough.   |
| Powers under sections seventeen to twenty-five of the Metropolis Water Act, 1871 ( <i>e</i> ), with respect to regulations of water companies ( <i>f</i> ).  | The power to be exercised only with respect to a water company supplying any part of the borough ( <i>g</i> ).<br>34 & 35 Vict.,<br>c. 113.  |
| Power under section seven ( <i>h</i> ) of the Railway and Canal Traffic Act, 1888, to make or appear in opposition to certain complaints.  | 51 & 52 Vict.,<br>c. 25.   |
| Power under section sixty-five of the Local Government Act, 1888, which section relates to the acquisition of land ( <i>i</i> ).   | The power to be exercised only when the land is required for the purpose of any of the powers or duties of the borough council ( <i>j</i> ).<br>51 & 52 Vict.,<br>c. 41.                           |
| Power to adopt Part III. of the Housing of the Working Classes Act, 1890 ( <i>k</i> ).   | The power to be exercised only within the borough.<br>53 & 54 Vict.,<br>c. 70.   |
| Power to make bye-laws under section twenty-three ( <i>l</i> ) of the Municipal Corporations Act, 1882, as applied by section sixteen of the Local Government Act, 1888 ( <i>m</i> ).  | The bye-laws to be in force only within the borough, and not to be inconsistent with any bye-laws made by the county council ( <i>n</i> ).<br>45 & 46 Vict.,<br>c. 50.<br>51 & 52 Vict.,<br>c. 41. |

(*a*) For the sections of the London Building Act referred to in this Part of Schedule II., see Appendix D. 4, p. 244.

(*b*) The powers given are substantially these: Where any person has been convicted of an offence against the Act or any bye-law made under it by constructing or altering any building or structure, the Council may, after giving fourteen days' notice to such person to bring such building or structure into conformity with the provisions of the Act, and after default in complying

with such notice, apply to a petty sessional court for an order authorising the council to demolish or alter such building or structure, and, if they think fit, to sell the materials and to recover their expenses or the balance thereof after deducting the proceeds of sale in a summary manner from such person. The order will be preceded by a summons to the person who has committed the offence to appear to answer the complaint.

(c) No express provisions are contained either in the London Building Act or in the present Act as to who may take proceedings and so "obtain a conviction" for an offence against the former Act; but it is suggested that the power to take such proceedings is implied in sect. 6, subs. (6), of the present Act, p. 74.

(d) Section 197 of the London Building Act prohibits the stacking of timber or barrels in front of the general buildings line or in dangerous proximity to furnaces, or more than sixty feet from the ground, with certain exceptions. The penalty provided by section 200 (11) (h) is a maximum of forty shillings and a daily penalty not exceeding the like amount.

(e) For these sections of the Metropolis Water Act, 1871, see Appendix D., p. 251.

(f) By the sections in question every metropolitan water company is bound to make regulations for preventing the waste, misuse, or contamination of water. Such regulations are subject to repeal or alteration at the discretion of the company or on the requisition of the Local Government Board. Further, any ten consumers or the "metropolitan authority" (hitherto the London County Council, but under the present Act, the borough councils also) may request any company to make, repeal, or alter regulations, and on its refusal, the Local Government Board may, on the report of an engineer, and after a subsequent inquiry and hearing the council and the company, make, alter, or repeal such regulations, as they think fit. But no regulation, repeal, or alteration made by a company will be valid unless confirmed by the Local Government Board. Certain regulations under these sections are in force at the present time, and will remain so unless and until altered in the manner provided.

(g) In point of fact, every metropolitan water company supplies a very large area; and their districts of supply are by no means conterminous with any of the new boroughs; so that it would be possible for a conflict to occur by reason of a difference of view in different boroughs supplied by the same company. Any such conflict, however, would be obviated by the governing powers of the Local Government Board.

(h) For the provisions of sect. 7 of the Railway and Canal Traffic Act, and the other enactments involved in its application, see note (d) to sect. 5 of the present Act, pp. 66-7.

(i) For sect. 65 of the Local Government Act, 1888, and the sections of the Public Health Act, 1875, therein made applicable, see Appendix D. 12, p. 255.



Compare note (d) to sect. 5, p. 67. The section incorporates section 176 of the Public Health Act, 1875 (38 and 39 Vict., c. 55), which contains regulations for procedure in cases of compulsory purchase, and applies the Land Clauses Consolidation Acts, which regulate the procedure for assessing compensation for compulsory purchase.

(j) But the councils of metropolitan boroughs will have certain powers of acquiring land by virtue of the Metropolis Management Acts, as successors of the vestries and district boards under sect. 4 of the present Act, and also by virtue of other provisions of the Act. Such powers are given by the Metropolitan Paving Act, 1817 (Michael Angelo Taylor's Act, 57 Geo. III., c. xxix.), sects. 80 to 96, as applied by the Metropolis Management (Amendment) Act, 1862, sect. 73; by the Metropolis Management Act, 1856 (19 and 20 Vict., c. 112), sect. 11. (see Appendix D., p. 246), and by the Metropolitan Open Spaces Acts, 1877 to 1890, which are referred to in note 28 to Appendix E., p. 267.

(k) See note (d) to sect. 5 of the present Act, p. 72.

(l) For sect. 23 of the Municipal Corporations Act, 1882, see Appendix D. 13, p. 255.

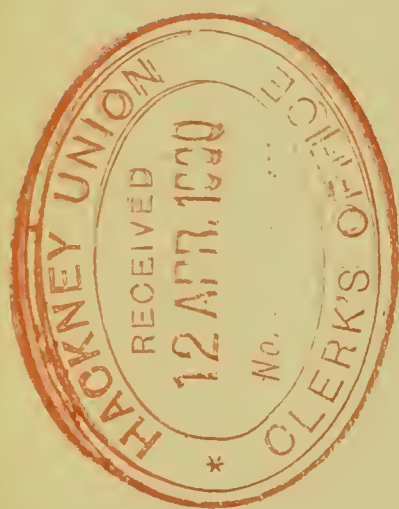
(m) See note (d) to sect. 5, p. 72. It must not be supposed that the authority to make bye-laws is uncontrolled, even where they do not require express confirmation; on the contrary, the validity of bye-laws purporting to be made under the Municipal Corporations Acts and other Acts has frequently been called in question in appeals against attempts to enforce them, and there are many cases in which bye-laws have been held to be *ultra vires* as oppressive, unfair, or unreasonable. See *Kruse v. Johnson*, 1898 2 Q.B., 91; *Johnson v. Corporation of Croydon*, 16 Q.B.D., 708 [1886]; *Strickland v. Hayes*, 1896, 1 Q.B., 290; *Thomas v. Sutters*, 1900, 1 Ch. 10.

(n) It would seem to follow from the conditions in the schedule that if the County Council should make a valid bye-law inconsistent with a bye-law previously made by the council of a borough, the later would become *ipso facto* inoperative.

## THIRD SCHEDULE.

*Section 35 (2).* ENACTMENTS REPEALED.

| Session and Chapter.      | Short Title.                                       | Extent of Repeal.   |
|---------------------------|--|---|
| 6 & 7 Vict.,<br>c. 18.    | The Parliamentary Voters (Registration) Act, 1843. | In section fifty-six the words "or to the town clerk of the borough of Southwark," and the words "and in regard to the borough of Southwark, the high bailiff of the said borough" ( <i>a</i> )   |
| 18 & 19 Vict.,<br>c. 120. | The Metropolis Management Act, 1855.               | <p>Sections two and three (<i>b</i>)</p> <p>Section five (<i>c</i>)</p> <p>Section seven (<i>d</i>)</p> <p>Section eight, from the beginning to "shall be elected and," and the words "with such other persons as herein-before-mentioned" (<i>e</i>)</p> <p>Sections eleven and twelve (<i>f</i>)</p> <p>Section twenty-eight to "every such meeting" (<i>g</i>)</p> <p>Section twenty-nine (<i>h</i>)</p> <p>Sections thirty-one to forty-two (<i>i</i>)</p> <p>Sections fifty-five and fifty-six (<i>j</i>)</p> <p>Sections fifty-seven, fifty-eight, sixty, sixty-one, and sixty-six, so far as they relate to district boards and their districts, and section fifty-eight, from "Provided always" to the end of the section (<i>k</i>)</p> <p>Section ninety-one, from "save as regards" to "any of the said Acts; and" (<i>l</i>)</p> <p>Section one hundred and fifty-four, from "may sell and dispose of any land" to "just; and any such board or vestry," except in so far as it applies to the Metropolitan Board of Works (<i>m</i>)</p> <p>Section one hundred and fifty-eight, from "but every such vestry" (<i>n</i>)</p> |



| Session and Chapter.      | Short Title.                                      | Extent of Repeal.  |
|---------------------------|---|--|
| 25 & 26 Vict.,<br>c. 102. | The Metropo-<br>lis Manage-<br>ment Act,<br>1862. | <p>Sections one hundred and sixty-one to one hundred and sixty-five (<i>o</i>)</p> <p>Sections one hundred and sixty-six to one hundred and sixty-nine (<i>p</i>)</p> <p>Sections one hundred and seventy-two to one hundred and seventy-four (<i>q</i>)</p> <p>Sections one hundred and seventy-five to one hundred and seventy-nine (<i>r</i>)</p> <p>Sections one hundred and ninety-two to one hundred and ninety-seven (<i>s</i>)</p> <p>In section one hundred and ninety-eight, the words "the said account in abstract" to "printed therewith," and the words "account in abstract, statement, and" wherever they occur (<i>t</i>)</p> <p>In section one hundred and ninety-nine, the words "according to the provisions of this Act" (<i>u</i>)</p> <p>Section two hundred and thirty-seven, from "nor shall such parts" to "cleansing" (<i>v</i>)</p> <p>Section two hundred and thirty-eight (<i>w</i>)</p> <p>In section eight, the words "and the precept for obtaining payment of moneys required by the board for that purpose" (<i>x</i>)</p> <p>Sections nine to twelve (<i>y</i>)</p> <p>Section fourteen (<i>z</i>)</p> <p>Section fifteen, so far as it relates to vestries and district boards (<i>aa</i>)</p> <p>Section sixteen (<i>bb</i>)</p> <p>Section thirty-seven, so far as it relates to district boards (<i>cc</i>)</p> <p>Section thirty-eight (<i>dd</i>).</p> <p>Section forty (<i>ee</i>).</p> <p>Section forty-one (<i>ff</i>).</p> |



| Session and Chapter.     | Short Title.                                      | Extent of Repeal.   |
|--------------------------|---|---|
|                          |   | <p>In section fifty-six the words "out of the sewers rate to be levied in their parish or district" (<i>gg</i>).</p> <p>In section eighty-four the words "with the previous sanction of the Metropolitan Board of Works," and the words "allowed by the Metropolitan Board" (<i>hh</i>).</p> <p>The forms of precept in Schedule C (<i>ii</i>).</p>   |
| 48 & 49 Vict.,<br>c. 23. | The Redistri-<br>bution of<br>Seats Act,<br>1885. | In section twelve the words "and also the town clerk for the new borough within the meaning of the Registration Acts" ( <i>jj</i> ).  |
| 54 & 55 Vict.,<br>c. 76. | The Public<br>Health<br>(London)<br>Act, 1891.    | Sections one hundred and two and one hundred and forty, and the second schedule ( <i>kk</i> ).  |
| 55 & 56 Vict.,<br>c. 53. | The Public<br>Libraries<br>Act, 1892.             | Section twenty-two ( <i>ll</i> ).   |
| 56 & 57 Vict.,<br>c. 73. | The Local<br>Govern-<br>ment Act,<br>1894.        | <p>In section thirty-one the words "the local board of Woolwich and"; the words "and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts," and the words "and no person shall, <i>ex-officio</i>, be chairman of any of the said vestries"; and sub-section (2) (<i>mm</i>).</p> <p>At the end of section forty-six the words "and in the case of London auditors as if they were members of a district council" (<i>nn</i>).</p> <p>In section forty-eight, sub-section (4), the words "and of members of the local board of Woolwich"; and in sub-section (5) the words "local board or" and "or auditor" (<i>oo</i>).</p> |

| Session and Chapter.         | Short Title.   | Extent of Repeal.                |
|------------------------------|--|----------------------------------|
| 56 & 57 Vict.,<br>c. ccxxi.  | The London<br>County<br>Council<br>(General<br>Powers)<br>Act, 1893. | Section fifteen ( <i>pp</i> ).   |
| 58 & 59 Vict.,<br>c. cxxvii. | The London<br>County<br>Council<br>(General<br>Powers)<br>Act, 1895. | Section forty-two ( <i>pp</i> ). |

(a) The Registration Act of 1843 imposed certain duties on town clerks of parliamentary boroughs as to printing forms of precepts, notices, and lists, and forwarding the same to the overseers, as to printing and publishing voters' lists, receiving and registering objections, signing revised lists, &c. But sect. 56 provided that in Southwark the proper officer to perform these duties should be the high bailiff of the borough of Southwark. The schedule repeals this provision, which the present Act supersedes, as the duties in question will be performed by the town clerk or town clerks of the boroughs occupying the area of the parliamentary borough of Southwark.

See sect. 4, subs. (1), p. 57, and sect. 27, subs. (2), p. 128.

(b) Sects. 2 and 3 of the Metropolis Management Act, 1855, relate to the constitution of vestries and the division of parishes into wards. The present Act supersedes these provisions by abolishing the vestries under sect. 4, subs. (1), p. 57, and providing for the division into wards by order in council under sect. 2, subs. (2), p. 52.

(c) Sect 5 provided for altering the number of vestrymen for the several wards. This will be done in the boroughs by order of the Local Government Board under sect. 26, p. 126.

(d) Sect. 7 provided for the first elections of vestrymen: this is, of course, obsolete. It also provided for the date of subsequent elections. This is dealt with by sect. 3 of the present Act, p. 56.

(e) The words repealed are obsolete.

(f) Sects. 11 and 12 provided for the appointment of auditors for the several parishes. These officers are abolished by sect. 27, subs. (4) of the present Act, p. 128; and a different system of audit is provided by sect. 14, p. 98.

(g) The part of sect. 28 which is repealed dealt with the

quorum ; this is now provided for by sect. 2, subs. (6), of the present Act, p. 53.

(*h*) Sect. 29 prohibited vestry meetings from being held in the parish church or chapel.

(*i*) Sects. 31 to 41 dealt with the formation of district boards, their membership, elections, and meetings ; and sect. 42 constituted the administrative vestries and the district boards bodies corporate.

(*j*) Sect. 55 gave power to any member to resign by notification in writing. The regulations as to resignation are now those of the Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), sect. 36, which require the payment of a fine on resignation, the amount of which is provided for by sect. 34. These provisions were made applicable to members of vestries and district boards by the Local Government Act, 1894 (56 and 57 Vict., c. 73), sect. 48 ; and they are in turn rendered applicable to members of a borough council by sect. 2, subs. (5), of the present Act, p. 53. Sect. 56 made an outgoing member re-eligible ; this is done by sect. 37 of the Municipal Corporations Act, 1882, which is incorporated with the present Act by the section just mentioned.

(*k*) Sect. 57 places restrictions on the revocation of resolutions, which will still apply ; but the enactment is inapplicable to district boards. Sect. 58 gave power to appoint committees, but without executive powers ; these are dealt with by sect. 8 of the present Act, p. 83. Sect. 60 provides for the taking of minutes and accounts, &c., and sect. 61 for the right of inspecting all minute books and account books on the part of every member and ratepayer. These provisions will still apply (the repealed words being now surplusage), save as the keeping of accounts will be modified by the provisions of sect. 14 of the present Act with regard to audit (p. 98). Sect. 66 requires offices to be provided : this will continue to be the law, the repealed words being now surplusage.

(*l*) The repealed passage in sect. 91 has become obsolete.

(*m*) The repeal of this part of sect. 154 has the effect of depriving the borough councils of the general power of alienating land which that part of that section gave to the vestries and district boards. The consent of the Local Government Board will now be required under sect. 6, subs. (5), of the present Act, p. 73 ; and sect. 32, p. 140, prohibits the alienation of open spaces. The unrepealed part of sect. 154 of the Metropolis Management Act, 1855, gives the power to let land while not required for the purposes for which it became vested in the vestry or district board.

(*n*) The repealed part of sect. 158 provided for a separate sewers rate ; this is to be discontinued (see sect. 10, subs. (1), of the present Act, p. 87) although sect. 12, p. 95, preserves any tenant's right to deduct or be repaid the sewers rate, which is in substitution for sect. 169, repealed.



(o) Sects. 161 to 165 dealt with the machinery of rating and with certain exemptions from sewers and lighting rates. Their subject matter is provided for by sect. 10 of the present Act, p. 87, in substitution.

(p) Sects. 166 to 168 provide for levy of rates and for cases of default by overseers; they will be obsolete under the present Act. Sect. 169 has been referred to in note (n), *supra*.

(q) Sects. 172 to 174 deal with the issue of the precepts of the Metropolitan Board of Works and payment of the sums assessed. The machinery under the present Act for the precepts of the London County Council is provided by sect. 11, subs. (2), p. 89.

(r) Sects. 175 to 179 provide for the levying of the central rate on extra-parochial places; but as no place will now be extra-parochial, these provisions are obsolete.

(s) Sects. 192 to 197 are the provisions for audit. They are superseded by sect. 14 of the present Act; see note (b) to that section, p. 98.

(t) Sect. 198 provides for the annual reports of the vestries and boards which are to be rendered to the London County Council. The repealed words are inapplicable, as they depend on the preceding repealed sections.

(u) The repealed words in sect. 199 referred to the old system of audit.

(v) Sect. 237 saves the powers and property of the Paving Commissioners of Ely Place, and the repealed passage exempted them from contribution to the expenses of the Holborn District Board in respect of paving, lighting, watering, and cleansing. Those services in respect of Ely Place have hitherto been performed by Commissioners under a local Act (5 and 6 Vict., c. xlviii). In other respects it contributes to the rates of the Holborn District Board, within whose area it lies, being part of the "Liberty of Saffron Hill, Hatton Garden, and Ely Rents," and, of course, it is assessed to the central rates. The repeal of the above exemption will render Ely Place assessable in the new borough of Holborn for all administrative purposes.

(w) Sect. 238 deals with the exceptional position of Woolwich; this borough will now be dealt with like the other borough areas, the necessary adjustments being effected by scheme. See sect. 19, p. 240.

(x) The repealed words in sect. 8 of the Metropolis Management Act, 1862, relate to a form of precept which is unsuitable under the present Act.

(y) Sects. 9 and 10 gave power to pay the central rate out of the local sewers rate; the latter being now abolished as a separate rate, the county contributions will be raised with the general rate. See the present Act, sect. 10, p. 87. Sects. 11 and 12 of the Act of 1862 related to contributions to the central account from the extra-parochial places in Schedule C. to the Act of 1855; these sections are therefore obsolete.

(*z*) Sect. 14 relates to superseded machinery for the levying and paying over of local rates.

(*aa*) The same remark applies to the repealed part of sect. 15. The unrepealed part gives to the London County Council the right to demand a copy of the local rates from each rating area.

(*bb*) Sect. 16 relates to the expenses of the elective but non-administrative vestries in Schedule B. to the Act of 1855. It is now, of course, obsolete.

(*cc*) Sect. 37 gives the right to appoint days of meetings. The reference to district boards as well as vestries is surplusage under the new Act.

(*dd*) Sect. 38 refers to the obsolete auditors.

(*ce*) Sect. 40 relates to the elections of members of district boards.

(*ff*) Sect. 41 contains further provisions as to division of parishes into wards; compare note (*b*) to this schedule *supra*.

(*gg*) The repealed words in sect. 56 are obviously obsolete, as referring to a separate sewers rate.

(*hh*) The repealed words in sect. 84 are expunged in pursuance of sect. 6, subs. (3), of the present Act, p. 73.

(*ii*) These are the superseded forms of precept referred to in note (*x*) to this schedule *supra*.

(*jj*) The repealed words in sect. 12 of the Redistribution of Seats Act, 1885, constituted the high bailiff of Westminster the town clerk of that borough within the meaning of the Registration Acts. This is obviously inconsistent with sect. 4, subs. (1), of the present Act, p. 57.

(*kk*) Sects. 102 and 140 and Schedule II. of the Public Health (London) Act, 1891, all refer to the special case of Woolwich, and are superseded by sect. 19 of the present Act, p. 116.

(*ll*) Sect. 22 of the Public Libraries Act, 1892, gave power to the voters in the area of a district board in the metropolis to adopt the Act. This is superseded by sect. 4, subs. (4) of the present Act, p. 58.

(*mm*) Sect. 31 of the Local Government Act, 1894, is the section which specially applies the provisions of that Act to London administrative areas. It is obvious that the words repealed have become obsolete; and subs. (2), applying to the election of a chairman is also obsolete.

(*nn*) The words at the end of sect. 46 refer to the abolished auditors.

(*oo*) The repealed expressions in sect. 48 are obviously superseded.

(*pp*) Sect. 15 of the London County Council (General Powers) Act, 1893, and sect. 42 of that of 1895, gave to the County Council powers of dividing parishes into wards; these powers will be superseded by sect. 2, subs. (2), p. 52, and sect. 26, p. 126 of the present Act.

PART III.

TEXT OF THE LONDON GOVERN-  
MENT ACT, 1899.





# London Government Act, 1899.

[62 & 63 VICT. CH. 14.]

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## ARRANGEMENT OF SECTIONS.

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A.D. 1899.  
—

### ESTABLISHMENT OF METROPOLITAN BOROUGHES.

#### Section.

1. Establishment of metropolitan boroughs in London.
2. Constitution of borough councils.
3. Date for elections of councillors.

### POWERS OF BOROUGH COUNCILS.

4. Transfer to borough councils of powers from vestries and district boards.
5. Transfer of powers from London County Council.
6. Additional powers and duties of borough councils.
7. Expenses incidental to transfer of powers or duties.
8. Committees.
9. Payments to and by borough council.

### RATES, OVERSEERS, AND AUDIT.

10. Levy of rates.
11. Provisions as to overseers and collection of rates.
12. Incidence of sewers rate or its equivalent.
13. Assessment Committees.
14. Audit of accounts.

### ORDERS AND SCHEMES.

15. Appointment of Commissioners and preparation of Orders and schemes.
16. Provisions to be made by scheme.
17. Rules as to boroughs and parishes.
18. Detached parts of parishes.
19. Application of Act to Woolwich.
20. Special provision as to Penge.
21. Provision as to Kensington Palace.

A.D. 1899.

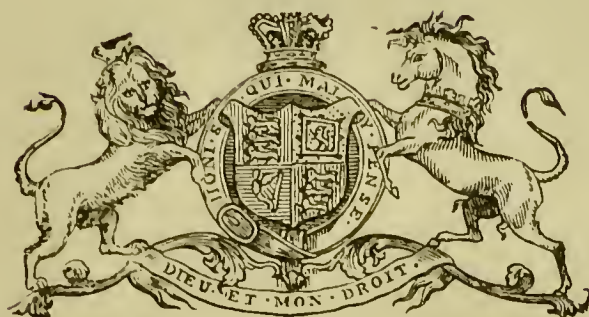
SUPPLEMENTAL.

Section.

22. Provision as to the Temples.
23. Church affairs and charities.
24. Mayors of boroughs as justices of the peace.
25. Deputy town clerk.
26. Alteration of wards.
27. Provisions as to names, first elections, &c.
28. Provisional Orders and proceedings of Local Government Board.
29. Proceedings in case of doubts as to transfer of powers.
30. Existing officers.
31. Construction of Acts and savings.
32. Borough councils not to alienate open spaces.
33. Appointed day and transitory provisions.
34. Definitions.
35. Short title and repeal.

SCHEDULES.





## CHAPTER 14.

An Act to make better provision for Local Government in London. [13th July, 1899.]

A.D. 1899.  
—

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### ESTABLISHMENT OF METROPOLITAN BOROUGHES.

**1.**—The whole of the administrative county of London exclusive of the City of London, shall be divided into metropolitan boroughs (in this Act referred to as boroughs), and for that purpose it shall be lawful for Her Majesty by Order in Council, subject to and in accordance with this Act, to form each of the areas mentioned in the First Schedule to this Act into a separate borough, subject, nevertheless, to such alteration of area as may be required to give effect to the provisions of this Act, and subject also to such adjustment of boundaries as may appear to Her Majesty in Council expedient for simplification or convenience of administration, and to establish and incorporate a council for each of the boroughs so formed.

Establishment of  
metropolitan  
boroughs in  
London.

**2.**—(1). The council of each borough shall consist of a mayor, aldermen, and councillors. Provided that no woman shall be eligible for any such office.

Constitution of  
borough  
councils.

(2.) An Order in Council under this Act shall fix the number of councillors, and fix the number and boundaries of the wards, and shall assign the number of councillors

A.D. 1899.

to each ward, that number being divisible by three, and regard being had to the rateable value as well as to the population of the wards.

(3.) The number of aldermen shall be one-sixth of the number of councillors, and the total number of aldermen and councillors for each borough shall not exceed seventy.

51 & 52 Vict.,  
C. 41.

(4.) Except as otherwise provided by or under this Act, the provisions of the Local Government Act, 1888, with respect to the chairman of the county council and the county aldermen respectively shall apply to the mayor and aldermen of a metropolitan borough respectively, and for this purpose references in that Act to the chairman of the county council and to county aldermen shall be construed as references to the mayor and aldermen of the borough.

(5.) Except as otherwise provided by or under this Act, the law relating to the constitution, election and proceedings of administrative vestries, and to the electors and members thereof, shall apply in the case of the borough councils under this Act and the electors and councillors thereof, and section forty-six of the Local Government Act, 1894, relating to disqualifications shall apply to the offices of mayor and alderman.

56 & 57 Vict.,  
C. 73.

(6.) The quorum of the borough council shall be one-third of the whole number of the Council.

(7.) The mayor and an alderman of a metropolitan borough shall be required to accept office within the same period as is allowed in the case of a councillor.

(8.) The Local Government Board may, on request made by a borough council in pursuance of a resolution of the council passed by a majority of two-thirds of the members present and voting at a meeting of the council duly convened for the purpose, provided that such majority is not less than the majority of the whole council, make an order directing that the whole of the councillors shall retire together on the ordinary day of election in every third year, and may on like request rescind any such order.

Date for elections  
of councillors.

**3.—**(1.) The first elections of all borough councillors under this Act shall be held on the first day of November one thousand nine hundred, or on such later day, as soon as practicable thereafter, as may be fixed by the Lord President of the Council, who shall also fix a corresponding date for the first elections of mayor and aldermen.

(2.) The ordinary day of election of borough councillors shall be the first day of November, or if that day is Sunday, then the following day.

(3.) The ordinary day of election of the mayor and



aldermen shall be the ninth day of November, or if that day is Sunday, then the following day.

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(4.) The revised lists of voters in each borough shall in each year after the year one thousand nine hundred be printed and signed before the twentieth day of October, and come into operation as the register for the purpose of borough elections on the first day of November.

## POWERS OF BOROUGH COUNCILS.

4.—(1.) On the appointed day every elective vestry and district board in the county of London shall cease to exist, and, subject to the provisions of this Act and of any scheme made thereunder, their powers and duties, including those under any local Act, shall, as from the appointed day, be transferred to the council for the borough comprising the area within which those powers are exercised, and their property and liabilities shall be transferred to that council, and that Council shall be their successors, and the clerk of the Council shall be called the town clerk, and shall be the town clerk within the meaning of the Acts relating to the registration of electors.

Transfer to  
borough councils  
of powers from  
vestries and  
district boards.

Provided that in the case of borrowing powers so transferred, if the London County Council refuse their sanction, or do not within six months after application made give their sanction, to a loan, or attach conditions to their sanction, an appeal shall lie to the Local Government Board, whose decision shall be final.

(2.) Where any of the adoptive Acts is adopted within a borough, the borough council shall be the authority for administering the Act; and where any such Act has been adopted before the appointed day, and is administered by commissioners or a board, a scheme under this Act shall abolish the commissioners or board, and transfer their powers, duties, property, and liabilities to the borough council.

(3.) The powers of a borough council shall, save as in this Act mentioned, extend to the whole of their borough.

Provided that any power or duty of the council under any Act, whether general or local, conferring powers in relation to some particular parish or district, or part of a parish or district, shall be exercised and performed by the council either throughout the borough or in a limited part thereof, or shall cease to be exercised and performed, as may be provided by a scheme under this Act, having regard to the object of the Act under which the power or



A.D. 1899.

duty arises, and to the nature of any change of area or alteration of boundary made by or under this Act.

(4.) Any of the adoptive Acts may be adopted in a metropolitan borough in like manner as in a borough outside London, and not otherwise, and where any of the adoptive Acts adopted before the appointed day does not extend to the whole borough, the Act may be adopted in the rest of the borough in like manner as if it were a separate borough and the borough council were the council thereof.

Transfer of  
powers from  
London County  
Council

5.—(1.) As from the appointed day the powers and duties of the London County Council under the enactments mentioned in Part One of the Second Schedule to this Act shall, subject to the conditions mentioned in that schedule, be transferred to each borough council as respects their borough.

(2.) As from the appointed day the powers of the London County Council under the enactments mentioned in Part Two of the Second Schedule to this Act may, subject to the conditions mentioned in that schedule, be exercised also by each borough council as respects their borough.

(3.) The Local Government Board may, if they think fit, on the application of the London County Council and of the majority of the borough councils, make a Provisional Order for transferring to all the borough councils any power exerciseable by the County Council, or for transferring to the County Council any power exerciseable by the borough councils.

(4.) The Local Government Board may also, on the joint application of the London County Council and the Common Council of the City of London, make a Provisional Order transferring any power from the County Council to the Common Council, or from the Common Council to the County Council.

Additional  
powers and  
duties of borough  
councils.

6.—(1.) As from the appointed day the power and duty of maintaining any main road existing at the passing of this Act within a borough shall be transferred to the borough council, and the road shall vest in the borough council and shall cease to be a main road.

(2.) Where a highway in a borough is repairable by the London County Council by reason of its being the roadway or footway of a bridge, embankment, or otherwise, the borough council shall, if so required by the county council,

undertake the maintenance and repair thereof in consideration of such annual payment by the county council as may from time to time be agreed on, or in default of agreement be finally determined by the Local Government Board, and for the purpose of the undertaking the borough council shall have the same powers and be subject to the same duties and liabilities as if the highway were vested in them.

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(3.) The power of a borough council to close or stop up a street under section eighty-four of the Metropolis Management Amendment Act, 1862, shall not require the sanction or allowance of the London County Council. Provided that before closing or stopping any such street the borough council shall give notice to the councils of any contiguous boroughs.

25 & 26 Vict.  
c. 102.

(4.) It shall be the duty of each borough council to enforce within their borough the byelaws and regulations for the time being in force with respect to dairies and milk, and with respect to slaughter-houses, knackers'-yards, and offensive businesses, and for the purpose of performing this duty the borough council shall in all cases have the same powers of entry as they have in the case of slaughter-houses and knackers' yards, and if the council make default in performing this duty, the provisions of the Public Health (London) Act, 1891, shall apply as if the default were a default under that Act.

54 & 55 Vict.,  
c. 76.

(5.) A borough council may, with the consent of the Local Government Board, alienate any land for the time being vested in the council, and the proceeds of the sale of any land sold by the council shall be applied in such manner as the Local Government Board sanction towards the discharge of any loan of the council or otherwise for any purpose for which capital may be applied by the council.

(6.) A borough council shall have the same powers of promoting and opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of their borough, as are conferred on borough councils outside London by the Borough Funds Act, 1872, and the provisions of that Act shall extend to the council of a metropolitan borough as if that council were included in the expression "governing body" and the borough were a district in that Act mentioned.

35 & 36 Vict.  
c. 91.

7.—(1.) Where any power or duty is transferred from the London County Council to a borough council or from

Expenses  
incidental to  
transfer of  
powers or duties.



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a borough council to the London County Council by or under this Act, the borough council or county council, as the case may be, shall defray as part of their ordinary expenses the expenses of and incidental to the power or duty, but the county council shall contribute to the borough council, or the borough council to the county council, in respect of those expenses, such amount, if any (whether capital or annual), and subject to such conditions, if any, as may—

(a) if the transfer is made by this Act, be agreed on between the councils within six months after the transfer, or in default of agreement be finally determined by the Local Government Board; and

(b) if the transfer is made by a Provisional Order, be fixed by the Order.

Provided that every borough council shall have an opportunity of making a representation to the Local Government Board as to the amount of any contribution under this section to another council, and if the amount is settled by agreement may, within three months from the date at which the agreement is notified to them, appeal against it to the Local Government Board, who may finally determine the amount.

(2.) Where the transfer is made by Provisional Order the amount of contribution from or to the county council may be varied in each case to meet the circumstances of the case.

(3.) This section shall apply as if the Common Council of the City of London were the council of a metropolitan borough.

Committees.  
55 & 56 Vict.,  
c. 53.  
56 & 57 Vict.,  
c. 11.

8.—(1.) Any committee appointed by a borough council for the purpose of the Public Libraries Acts, 1892 and 1893, may consist partly of persons not members of the council.

(2.) Every committee shall report their proceedings to the council, but, to the extent to which the council so direct, the acts and proceedings of the committee shall not require the approval of the council. Provided that a committee shall not raise money by loan or by rate, or spend any money beyond the sum allowed by the council.

(3.) Every borough council shall from time to time appoint a finance committee for regulating and controlling the finance of the council; and no order for payment of any sum, whether on account of capital or income, shall be made by a borough council except in pursuance of a



resolution of the council passed on the recommendation of the finance committee; and any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council passed on an estimate submitted by the finance committee. The notice of the meeting at which any resolution for the payment of any sum by the borough council (otherwise than for ordinary periodical payments) or any resolution for incurring any costs, debt, or liability exceeding fifty pounds will be proposed, shall state the amount of the said sum, costs, debt, or liability, and the purpose for which they are to be paid or incurred. Provided that the foregoing provisions shall not apply to payments made in pursuance of a precept from another authority.

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(4.) Section fifty-seven of the Local Government Act, 1894, which relates to joint committees, shall, with the substitution of the words Local Government Board for County Council therein, apply to borough councils as if they were district councils.

56 & 57 Vict.,  
c. 73.

9.—(1.) All payments to and by the borough council shall be made to and by the borough treasurer, and all payments by the council shall, unless made in pursuance of the specific requirement of an Act of Parliament, or of an order of a competent court, be made in pursuance of an order of the council signed by three members of the finance committee present at the meeting of the council, and countersigned by the town clerk, and the same order may include several payments. Moreover, all cheques for payment of moneys issued in pursuance of any such order shall be countersigned by the town clerk, or by a deputy approved by the Council.

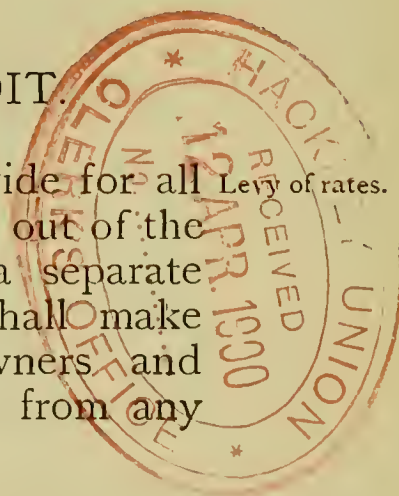
Payments to and  
by borough  
council.

(2.) Any such order may be removed into the High Court of Justice by writ of certiorari, and may be wholly or partly disallowed or confirmed on motion and hearing with or without costs according to the judgment and discretion of the court.

## RATES, OVERSEERS, AND AUDIT.

10.—(1.) A scheme under this Act shall provide for all the expenses of a borough council being paid out of the general rate, and for the discontinuance of a separate sewers rate and separate lighting rate, but shall make provision for protecting the interests of owners and occupiers of any hereditament which is exempt from any

Levy of rates.



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rate or liable to be assessed thereto at a less amount than other hereditaments

(2.) After the appointed day the general rate and the poor rate shall be assessed, made, and levied together by the borough council as one rate, which shall be termed the general rate, and shall be assessed, made, collected, and levied, as if it were the poor rate, and all enactments applying or referring to the poor rate, shall, subject to the provisions of this Act as to audit, be construed as applying or referring also to the general rate.

(3.) Where a borough comprises more than one parish, the amount to be raised to meet the expenses of the borough council, or other sums payable as part of those expenses, shall, subject to any provision required for the adjustment of local burdens, be divided between the parishes in proportion to their rateable value.

(4.) Where any of the adoptive Acts, or any local or other Act, does not extend to the whole borough, any rate required to meet the expenses incurred under the Act shall, subject to the provisions of any scheme under this Act, be levied together with, and as an additional item of, the general rate over the area to which the Act extends.

Provisions as to  
overseers and  
collection of  
rates.

11.—(1.) After the appointed day the council of each borough shall be the overseers of every parish within their borough, and shall appoint such officers as may be required to assist in the transaction of the business, and shall defray the expenses of and incidental to the performance of the duties, of overseers. Provided that the town clerk of each borough shall have the powers and duties and be subject to the liabilities of overseers with respect to the preparation of lists of voters and of jury lists in the borough, and any document required to be signed by overseers may be signed by the town clerk.

(2.) After the appointed day every precept issued by any authority in London for the purpose of obtaining money which is ultimately to be raised out of a rate within a borough, other than a precept sent to guardians by the Local Government Board or by a body containing representatives elected by the guardians, shall be sent to the council at their office, addressed to the council or to the town clerk. Any such precept, if so sent and addressed, shall be deemed to be personally served on the council, and shall be executed by them. "Precept" in this section includes any order, certificate, warrant, or other document of a like character, and the Local Government Board may settle the form of any precept as so defined.



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(3.) After the appointed day all the rates collected in a metropolitan borough from any person by the Council shall, as far as is practicable, be levied on one demand note, and the demand note shall be in a form approved by the Local Government Board, and shall state in manner provided in that form—

- (a) the rateable value of the premises in respect of which the rate is levied; and
- (b) the rate in the pound; and
- (c) the period for which the rate is made; and
- (d) the several purposes for which the rate is levied; and
- (e) the approximate amount in the pound required for each purpose (including, as far as is practicable, the proportionate amount of the estimated costs of and loss in collection); and
- (f) any matter required by section two of the London (Equalisation of Rates) Act, 1894, or any other enactment, to be stated in the demand note.

57 & 58 Vict.,  
c. 53.

**12.**—As between landlord and tenant every tenant who, if this Act had not been passed, would have been entitled to deduct against or to be repaid by his landlord any sum paid by the tenant on account of the sewers rate, shall in like manner be entitled to deduct against or to be repaid by his landlord such portion of the general rate as represents the sewers rate.

Incidence of  
sewers rate or its  
equivalent.

**13.** Where the whole of a poor law union is within one borough, the assessment committee shall, notwithstanding anything in section five of the Valuation (Metropolis) Act, 1869, be appointed by the borough council instead of by the board of guardians, and, where the borough comprises the whole of two or more unions, the council shall appoint only one assessment committee for those unions, and where the council appoint the assessment committee the town clerk shall act as the clerk to that committee.

Assessment  
Committees.

32 & 33 Vict.,  
c. 67.

**14.** After the appointed day the accounts of the council of every metropolitan borough, and of any committee appointed by the council, and of their officers, including the accounts relating to the making, levy, and collection of any rate made by the council, shall be made up and audited in like manner and subject to the same provisions as the accounts of the London County Council, and the enactments relating to the audit of those accounts and to

Audit of  
accounts.



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all matters incidental thereto and consequential thereon, including the penal provisions, shall apply accordingly.

## ORDERS AND SCHEMES.

Appointment of Commissioners and preparation of orders and schemes.

**15.**—(1.) It shall be lawful for Her Majesty in Council to refer to a Committee of the Privy Council the appointment of Commissioners to prepare such Orders and schemes as are required for carrying this Act into effect, and the Committee may settle the Orders and schemes so prepared, and may employ such persons as they may deem necessary for the purposes of this Act.

(2.) Before any Order in Council forming an area into a borough is made under this Act, the draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and if either of those Houses before the expiration of those thirty days presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft Order.

(3.) The Commissioners shall for the execution of their duties under this Act have the like powers as inspectors of the Local Government Board.

(4.) Any expenses incurred by the Committee under this Act shall, to the amount certified by the Treasury, be paid by the London County Council out of the county fund.

Provisions to be made by scheme.

45 & 46 Vict.,  
c. 50.

51 & 52 Vict.,  
c. 41.

56 & 57 Vict.,  
c. 73.

**16.**—(1.) A scheme under this Act may make provision—

- (a) for any matters which under this Act are to be regulated by scheme; and
- (b) for any of the purposes, except police, for which a scheme may be made under Part Eleven of the Municipal Corporations Act, 1882, so far as those purposes are consistent with this Act; and
- (c) for anything which may be done with respect to a parish by an order under section fifty-seven of the Local Government Act, 1888, or may be done under section thirty-three of the Local Government Act, 1894, so, however, that parishes in different unions shall not be united except with the approval of the Local Government Board; and
- (d) for such adjustments as may be required for carrying into effect any of the provisions of this Act or for preventing any injustice with respect to the

incidence of any rate or the discharge of any liability or otherwise, and in particular for such adjustments as may be required for the efficient maintenance of any libraries, baths, or washhouses, which have been maintained under the provisions of any of the adoptive Acts; and

(e) for preserving, so far as may appear necessary or expedient, any right, power, exemption, or immunity heretofore exercised or enjoyed in respect of property belonging to or occupied by the Crown or any Government department; and

(f) for making such alterations in the boundaries of the electoral divisions for the purpose of school board elections as may be rendered necessary by any alteration in the area of the county of London; and

(g) for repealing or modifying any local Act other than the London Building Act, 1894; and <sup>57 & 58 Vict., c. ccxiii.</sup>

(h) for carrying into effect this Act or any Order in Council made thereunder;

and may contain any incidental, consequential, or supplemental provisions, which may appear to be necessary or proper for the purposes of the scheme.

(2.) In making adjustments by a scheme under this section, regard shall be had to any composition, contribution, or exemption, whether statutory or otherwise, which has heretofore existed in regard to any portion of any area dealt with under the scheme.

(3.) The provisions of the Municipal Corporations Act, 1882, as amended by the School Boards Act, 1885, with respect to a scheme under Part Eleven of the first-mentioned Act, shall apply in the case of any scheme under this Act with the necessary modifications, and any governors or trustees of the poor or other similar body under a local Act shall be deemed, but the London County Council shall not be deemed, to be a local authority within the meaning of those provisions. There shall also be deemed to be local authorities within the meaning of the said provisions:—

(a) the mayor, commonalty, and citizens, and the Court of Aldermen of the City of London, so far as relates to any powers exercisable by them or by officers appointed by them respectively within the ancient borough of Southwark; and

(b) the Dean and Chapter of the Collegiate Church of St. Peter, Westminster, so far as relates to any powers



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of local government exerciseable by them or their officers within the borough of Westminster, and the Court of Burgesses of the ancient city of Westminster.

(4.) Provided that notification in the London Gazette, and in such other manner as the Committee of Council may direct, of a draft scheme having been prepared or of a scheme having been settled, and of the place where copies of it can be inspected and obtained, shall be substituted for publication of the draft scheme or scheme in the London Gazette or in the manner required by the Seventh Schedule to the Municipal Corporations Act, 1882.

**17.—**(1.) Every part of the administrative county of London outside the City shall be situate in some borough and some parish, and a parish shall not be situate in more than one borough, or partly in a borough and partly in the City.

(2.) An Order in Council under this Act may divide a parish or place into parts for the purpose of giving effect to this section or of constituting a satisfactory area for a borough, and, unless otherwise provided by the Order or by a scheme under this Act, each part shall be a separate parish.

45 & 46 Vict.,  
c. 50.

Rules as to  
boroughs and  
parishes.

**18.—**(1.) Every part of a parish in London which is wholly detached from the principal part of the parish shall by an Order in Council under this Act be annexed to or divided between any of the boroughs which it adjoins, and be either constituted a separate parish or be annexed to or divided between any of the parishes which it adjoins, so however that the provisions of this Act with respect to a parish not being situate in more than one borough shall be observed.

Provided that if the Commissioners under this Act make a special report to Parliament that by reason of anything done under any of the adoptive Acts, or for any other exceptional reason, it is impracticable to deal with a detached part of a parish in manner required by the foregoing provisions of this section, those provisions shall not apply.

And further provided that the foregoing provisions of this section shall not apply to the hamlet of Knightsbridge.

(2.) Where the county of London surrounds a detached part of a parish in another county, the foregoing provisions shall apply, and the detached part shall for all purposes

Detached parts  
of parishes.



become part of the county of London and of the appropriate county electoral division.

(3.) Where a detached part so becomes part of the county of London, and is part of any urban district the remainder of which adjoins the county of London, the whole of the district may, by Order in Council, if it seems expedient after considering all the circumstances of the case, be added to and form for all purposes part of the county of London and of the appropriate borough.

(4.) Where a detached part of a parish in the county of London is wholly surrounded by any other county, the detached part shall for all purposes become part of that county, and where a detached part as aforesaid is surrounded by more than one county, that detached part shall become part of such county as shall be determined by Order in Council under this Act, and every such detached part shall, by Order in Council, be either constituted a separate parish or annexed to or divided between any parish or parishes which it adjoins, and be added to the appropriate county district and county electoral division.

(5.) Nothing in this section shall apply to the City of London.

(6.) The London County Council and the council of any adjoining county shall be entitled to be heard on any alteration or proposed alteration of the area of the county of London.

**19.—**(1.) A scheme under this Act shall provide for placing Woolwich under the general law applying to metropolitan boroughs, and for the repeal of the application thereto of the provisions of the Public Health Acts and other enactments not applying to London, and for the application thereto of the Metropolis Management Acts, 1855 to 1893, and other enactments applying to London.

Application of  
Act to  
Woolwich.

(2.) Subject to the provisions of any such scheme, this Act shall apply to Woolwich in like manner as if the local board of health thereof were an administrative vestry.

(3.) Nothing in this Act shall prevent the council of any borough consisting of or comprising Woolwich from continuing to make any contribution for the purpose of technical education hitherto made by any local authority, or from exercising any existing powers of carrying on a market.

**20.—**(1.) An Order in Council under this Act may either annex Penge to the borough of Lewisham or to the borough of Camberwell, or separate it from the county of

Special provision  
as to Penge.

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London and make it form part of the county of Surrey or of the county of Kent, and if it is so separated shall provide for constituting it an urban district, or for adding it to an adjoining county borough or urban district, and if necessary shall determine the county electoral division to which it is to belong.

(2.) A scheme under this Act shall make such provision as may be necessary for the apportionment and transfer of property and liabilities, and for the repeal of the application to Penge of the Metropolis Management Acts, 1855 to 1893, and any other enactments applying to London, and for the application thereto of the Public Health Acts and other enactments not applying to London.

Provision as to  
Kensington  
Palace.

**21.** An Order in Council under this Act may detach Kensington Palace from the borough of Westminster and attach it to the borough of Kensington.

Provision as to  
the Temples.

**22.** The places known as the Inner and Middle Temples shall for the purposes of this Act be deemed to be within the city of London.

## SUPPLEMENTAL.

Church affairs  
and charities.

**23.** (1.) Nothing in this Act shall transfer to a borough council any powers or duties of a vestry which relate to the affairs of the Church or any interest of a vestry in any church property, or shall make any incumbent or churchwarden an ex-officio member of a borough council, and a scheme under this Act shall provide for vesting any such powers and duties in the inhabitants of some parish or ecclesiastical district, and for vesting any such interest in the incumbent and churchwardens or one or some of them, and for the collection of any rate connected with a church or an incumbent by the churchwardens, or by officers appointed for the purpose.

(2.) Provided that any building which belongs to any body whose powers and duties are transferred to any borough council by or under this Act, and which has been erected wholly or partly on a churchyard shall, with its appurtenances, be transferred to and vest in the council, subject to such right of use for church purposes as may be given by the scheme.

(3.) As from the appointed day, the churchwardens of every parish within a metropolitan borough shall cease to be overseers, and references in any Act to the church-



wardens and overseers of any such parish shall, except so far as those references relate to the affairs of the church, be construed as references to the council of the borough comprising the parish, and the legal interest in all property vested either in the overseers or churchwardens and overseers of any such parish (other than property connected with the affairs of the church or held for an ecclesiastical charity within the meaning of the Local Government Act, 1894), shall, subject to the provisions of any scheme under this Act, vest in the borough council.

A.D. 1899.

56 & 57 Vict.  
c. 73.

(4.) Provision shall be made by scheme under this Act for substituting nominees of the borough council for overseers as trustees of any charity, due regard being had to the area benefited by the charity.

(5.) The Charity Commissioners shall, for the purposes of this Act, have the like powers with respect to charities, subject to the like appeal, as they have under and for the purposes of the Local Government Act, 1894.

(6.) Nothing in this Act shall affect the right to the benefit of any charity, or shall alter or confer any power of altering the defined charitable purposes (if any) to which any property is by law applicable at the passing of this Act.

**24.** With respect to a mayor of a borough being by virtue of his office a justice of the peace—

Mayors of  
boroughs as  
justices of the  
peace.

(1) he shall become a justice of the peace for the county of London ;

(2) he shall not be disqualified by reason of being a solicitor practising or carrying on business in the county of London or city of London ;

(3) he shall not practise as a solicitor before any justices of the county of London.

**25.** In case of the illness or absence of the town clerk, the borough council may appoint a deputy town clerk to hold office during their pleasure, and all things required or authorised by law to be done by or to the town clerk may be done by or to the deputy town clerk, and no defect in the appointment of a deputy shall invalidate his acts.

Deputy town  
clerk.

**26.—**(1) Whenever the Local Government Board is satisfied that a *prima facie* case is made out for a proposal for the alteration of the number of wards of a metropolitan borough, or of the boundaries of any ward, or of the apportionment of the members of the council among the

Alteration of  
wards.



A.D. 1899.  
—

wards, the Local Government Board may cause such inquiry to be made and such notices to be given as they may think expedient; and if satisfied that the proposal is desirable, may make an order accordingly.

(2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied, in such manner as the Local Government Board may direct.

(3.) The expenses of and incidental to the making of the order shall be paid by the borough council.

Provisions as to  
names, first  
elections, &c.

**27.**—(1.) An Order in Council under this Act shall—

(a) give each of the metropolitan boroughs an appropriate name; and

(b) fix the days, years, and times for the retirement of the first aldermen and councillors; and

(c) give such directions as to the first meeting of the borough councils, and make such other temporary modifications of the provisions of this Act, as may appear to Her Majesty to be necessary or proper for making those provisions applicable in the case of the first constitution of a borough council.

(2.) An Order in Council under this Act may make such provisions as appear necessary for adapting the enactments relating to the registration of electors to the provisions of this Act with respect to the powers and duties of the town clerk and overseers, and in particular for applying, so far as appears necessary, the law regulating the registration of electors in a municipal borough outside London.

(3.) An Order in Council under this Act shall provide for the revised list of voters in the administrative county of London outside the city being, in the year one thousand nine hundred, printed and signed before the twentieth day of October, and coming into operation as the register for the purpose of borough elections on the first day of November, and may provide for such adjustment of the lists of voters and registers with respect to any alteration under this Act of parish boundaries as may appear required for the purposes of those elections.

(4.) On the day on which the first borough councillors elected under this Act come into office, the persons who are then members of elective vestries or district boards, and the auditors and overseers of any place to be included in a borough, shall cease to hold office, and until that day the persons who are at the passing of this Act members of elective vestries and district boards, and auditors and overseers, shall continue in office as if the term of office

for which they were elected or appointed expired on that day, and, except for the purpose of filling casual vacancies, no further election or appointment shall be held or made. A.D. 1899.

**28.**—(1.) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875, shall apply to any Provisional Order made under this Act as if it were a Provisional Order made under that Act, except that the expenses incidental to the Provisional Order shall be defrayed by the councils concerned in such proportions as the Local Government Board may determine. Provisional Orders and proceedings of Local Government Board. 38 & 39 Vict. c. 55.

(2.) Sub-sections one and five of section eighty-seven of the Local Government Act, 1888, shall apply to any proceedings of the Local Government Board under or for the purposes of this Act. 51 & 52 Vict. c. 41.

(3.) Where the Local Government Board are authorised by this Act to determine any matter, it shall be at their option to determine the matter as arbitrators or otherwise, and, if they elect to determine the matter as arbitrators, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Local Government Board and the determination of matters under this Act. 31 & 32 Vict., c. 119.

**29.** If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to the council of any metropolitan borough, or any property is or is not vested in any such council, that question, without prejudice to any other mode of trying it, may, on the application of the council, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the court; and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question. Proceedings in case of doubts as to transfer of powers.

**30.**—(1.) Where the powers and duties of any authority are transferred by or under this Act to any borough council, the existing officers of that authority shall be transferred to and become the officers of that council. Any assistant overseers, rate collectors, and other officers employed in the performance of duties of overseers within a borough shall also be transferred to and become officers of the council for that borough. The council may abolish the office of any such officer whose office they deem Existing officers.



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unnecessary ; but any officer required to perform duties such as are not analogous, or which are an unreasonable addition to those which he is at present required to perform, may relinquish his office, and any officer so relinquishing his office, or whose office is abolished, shall be entitled to compensation under this Act.

56 & 57 Vict.,  
c. 73

(2.) Sub-sections four and seven of section eighty-one of the Local Government Act, 1894, shall apply to the existing officers affected by this Act as if references in those sub-sections to the district council were references to the borough council, and all expenses incurred by the borough council in pursuance of those sub-sections shall be paid out of the general rate : Provided that the borough council may, if it thinks fit, take into account continuous service under any authority or authorities to which this Act refers, in order to calculate the total period of service of any officer entitled to compensation under this Act.

(3.) For the purposes of this section "existing officers" shall mean officers holding office on the twenty-fourth day of February one thousand eight hundred and ninety-nine and also at the passing of this Act.

(4.) A scheme under this Act may make such provisions as may appear necessary for carrying this section into effect, and if necessary for determining the authority to whom any existing officer is to be transferred, and for applying the provisions of this section to any officer who suffers pecuniary loss by reason of anything in or done under this Act, although he is not transferred to a borough council, and although he is not an officer of an authority whose powers and duties are transferred by or under this Act, and for determining in any such case the fund out of which compensation is to be paid.

Construction of  
Acts and savings.

**31.**—(1.) Where any Act passed before the passing of this Act contains expressions referring to a borough, those expressions shall not be construed as referring to a metropolitan borough created by this Act unless applied thereto by or under the provisions of this Act or of any subsequent enactment.

(2.) Any enactment in any Act, whether general or local, referring to an authority whose powers or duties are transferred by or under this Act to a borough council shall be construed with the necessary modifications, including the substitution of the borough council for that authority and of the borough for the area of that authority.

(3.) Nothing in or done under this Act shall be construed



as altering the limits of any Parliamentary borough or Parliamentary county. A.D. 1899.

(4.) Except so far as the areas of parishes and sanitary districts are altered by or under this Act nothing in this Act shall affect the London (Equalisation of Rates) Act, 1894. 57 & 58 Vict.,  
c. 53.

(5.) Nothing in this Act, or in any order or scheme under this Act, shall abridge, alter, or affect the powers, rights, duties, or jurisdiction of the School Board for London over the area which for the time being constitutes the administrative county of London.

**32.** Nothing in this Act shall authorise any borough council to alienate any recreation ground or other open space dedicated to the use of the public, or any land held on trusts which prohibit building thereon. Borough councils  
not to alienate  
open spaces.

**33.—(1.)** For the purposes of this Act the appointed day shall be the day on which the members of the borough councils first elected under this Act come into office, or such other day not being more than six months earlier or later, as the Lord President of the Council may appoint, either generally, or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections, or for different boroughs. Appointed day  
and transitory  
provisions.

(2.) Subject to the provisions of any scheme under this Act, and to such adaptations as may be made by Order in Council, sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions), shall apply in the case of boroughs and borough councils under this Act. 56 & 57 Vict.,  
c. 73.

**34.** In this Act, unless the context otherwise requires,— Definitions.

The expression “administrative vestry” means a vestry having the powers of a vestry elected for a parish specified in Schedule A. to the Metropolis Management Act, 1855; and the expression “elective vestry” means any vestry elected under the Metropolis Management Act, 1855:

The expression “rateable value” shall include the value of Government property upon which a contribution in lieu of rates is paid: 18 & 19 Vict.,  
c. 120.

The expressions “powers,” “duties,” “property,” “liabilities,” and “powers, duties, and liabilities,”

A.D. 1899  
51 & 52 Vict.,  
c. 41.

have respectively the same meanings as in the Local Government Act, 1888 :

The expression " adoptive Acts " means the Baths and Washhouses Acts, 1846 to 1896, the Burial Acts, 1852 to 1885, and the Public Libraries Acts, 1892 and 1893 :

The expression " local Act " includes a provisional order confirmed by an Act, and the Act confirming the order ; and the expression " enactment " includes a provision of any such order.

Short title and  
repeal.

**35.—**(1.) This Act may be cited as the London Government Act, 1899.

(2.) As from the appointed day the enactments mentioned in the Third Schedule to this Act shall be repealed to the extent in the third column of that schedule mentioned.

# SCHEDULES.

A.D. 1899.

## FIRST SCHEDULE.

Section I.

### AREAS WHICH ARE TO BE BOROUGHES.

The parishes of—

|                |                 |
|----------------|-----------------|
| Battersea.     | Islington.      |
| Bethnal Green. | Kensington.     |
| Camberwell.    | Lambeth.        |
| Chelsea.       | Paddington.     |
| Fulham.        | St. Marylebone. |
| Hackney.       | St. Pancras.    |
| Hammersmith.   | Shoreditch.     |
| Hampstead.     |                 |

The areas consisting of the parishes of Mile End Old Town and St. George's-in-the-East and the districts of the Limehouse and Whitechapel Boards of Works including the Tower of London and the liberties thereof.

The district of the Poplar Board of Works.

The district of the Wandsworth Board of Works.

The area consisting of the parishes of St. George the Martyr, Christchurch, Southwark, St. Saviour, Southwark, and Newington.

The area consisting of the parishes of Rotherhithe, Bermondsey, Horsleydown, and St. Olave and St. Thomas, Southwark.

The area of the parliamentary division of Holborn.

The area consisting of the parliamentary divisions of East and Central Finsbury.

The area of the parliamentary borough of Deptford.

The area of the parliamentary borough of Greenwich.

The area of the parliamentary borough of Lewisham.

The area of the parliamentary borough of Woolwich.

The area of the ancient parliamentary borough of Westminster, comprising the parishes of St. Margaret and St. John, Westminster, the parish of St. George, Hanover Square, the parish of St. James, Westminster, the parish of St. Martin-in-the-Fields and the district of the Strand Board of Works, and including the Close of the Collegiate Church of St. Peter, Westminster, and the Liberty of the Rolls.

The area consisting of the parish of Stoke Newington and of the urban district of South Hornsey, or so much thereof as may be incorporated with the county of London under this Act.



A.D. 1899.  
—

SECOND SCHEDULE.

Section 5 (1).

PART I.

MINOR POWERS AND DUTIES TO BE TRANSFERRED FROM  
COUNTY COUNCIL.

| Powers and Duties transferred.  | Conditions of Transfer.   |
|---|---|
| Power under section eighty-four of the London Building Act, 1894, to license the setting up of wooden structures, and power to take proceedings for default in obtaining or observing the conditions of a licence under that section. |   |
| Power under section one hundred and thirty-four of the London Building Act, 1894, in relation to the removal of unauthorised sky signs.   | Subject in case of default to the provisions of the Public Health (London) Act, 1891, as if the default were a default under that Act.  |
| Powers under section one hundred and ninety-nine of the London Building Act, 1894, which section relates to the removal of obstructions in streets.   |   |
| Power under section twenty-eight of the Public Health (London) Act, 1891, of registering dairy-men.   | Subject to the power of the London County Council to make byelaws, and in case of default to the provisions of the Public Health (London) Act, 1891, as if the default were a default under that Act. |

PART II.

A.D. 1899.

POWERS OF COUNTY COUNCIL TO BE EXERCISED ALSO  
BY BOROUGH COUNCILS.

Section 5 (2).

| Powers exercisable.  | Conditions of Exercise.   |
|--|---|
| Power under section one hundred and seventy of the London Building Act, 1894, which section relates to the demolition of buildings in case of the conviction for an offence against the Act, or byelaws made under it. | The power to be exercised only where the borough council have obtained the conviction. <small>57 &amp; 58 Vict., c. ccxiii.</small>   |
| Power to take proceedings in respect of timber or other articles piled, stacked, or stored in contravention of section one hundred and ninety-seven or section two hundred (11) (h) of the London Building Act, 1894.  | The power to be exercised only within the borough.  |
| Powers under sections seventeen to twenty-five of the Metropolis Water Act, 1871, with respect to regulations of water companies.  | The power to be exercised only with respect to a water company supplying any part of the borough. <small>34 &amp; 35 Vict., c. 113.</small>   |
| Power under section seven of the Railway and Canal Traffic Act, 1888, to make or appear in opposition to certain complaints.   | <small>51 &amp; 52 Vict., c. 25.</small>  |
| Powers under section sixty-five of the Local Government Act, 1888, which section relates to the acquisition of land.   | The power to be exercised only where the land is required for the purpose of any of the powers or duties of the borough council. <small>51 &amp; 52 Vict., c. 41.</small>                         |
| Power to adopt Part III. of the Housing of the Working Classes Act, 1890.  | The power to be exercised only within the borough. <small>53 &amp; 54 Vict., c. 70.</small>   |
| Power to make byelaws under section twenty-three of the Municipal Corporations Act, 1882, as applied by section sixteen of the Local Government Act, 1888.   | The byelaws to be in force only within the borough and not to be inconsistent with any byelaws made by the county council. <small>45 &amp; 46 Vict., c. 50.<br/>51 &amp; 52 Vict., c. 41.</small> |

A.D. 1899.  
—

THIRD SCHEDULE.

Section 35 (2).

ENACTMENTS REPEALED.

| Session & Chapter.        | Short Title.  | Extent of Repeal.   |
|---------------------------|---|---|
| 6 & 7 Vict., c.<br>18.    | The Parliamen-<br>tary Voters (Re-<br>gistration) Act,<br>1843. | In section fifty-six, the<br>words "or to the town<br>clerk of the borough of<br>Southwark" and the<br>words "and in regard to<br>the borough of South-<br>wark the high bailiff of<br>the said borough."   |
| 18 & 19 Vict.,<br>c. 120. | The Metropolis<br>Management<br>Act, 1855.                      | Sections two and three.<br>Section five.<br>Section seven.<br>Section eight, from the<br>beginning to "shall be<br>elected and," and the<br>words "with such other<br>persons as herein-before<br>mentioned."<br>Sections eleven and twelve.<br>Section twenty-eight to<br>"every such meeting."<br>Section twenty-nine.<br>Sections thirty-one to forty-<br>two.<br>Sections fifty-five and fifty-six.<br>Sections fifty-seven, fifty-<br>eight, sixty, sixty-one and<br>sixty-six, so far as they<br>relate to district boards<br>and their districts, and<br>section fifty-eight, from<br>"Provided always" to the<br>end of the section.<br>Section ninety-one, from<br>"save as regards" to<br>"any of the said Acts;<br>and." |



| Session & Chapter.                     | Short Title.   | Extent of Repeal.   |
|--|--|---|
| 18 & 19 Vict.,<br>c. 120— <i>cont.</i> | The Metropolis<br>Management<br>Act, 1855-- <i>cont.</i> | <p>Section one hundred and fifty-four, from “may sell and dispose of any land” to “just; and any such board or vestry,” except in so far as it applies to the Metropolitan Board of Works.</p> <p>Section one hundred and fifty-eight, from “but every such vestry.”</p> <p>Sections one hundred and sixty-one to one hundred and sixty-five.</p> <p>Sections one hundred and sixty-six to one hundred and sixty-nine.</p> <p>Sections one hundred and seventy-two to one hundred and seventy-four.</p> <p>Sections one hundred and seventy-five to one hundred and seventy-nine.</p> <p>Sections one hundred and ninety-two to one hundred and ninety-seven.</p> <p>In section one hundred and ninety-eight, the words “the said account in abstract” to “printed therewith,” and the words “account in abstract, statement, and” wherever they occur.</p> <p>In section one hundred and ninety-nine, the words “according to the provisions of this Act.”</p> <p>Section two hundred and thirty-seven, from “nor shall such parts” to “cleansing.”</p> <p>Section two hundred and thirty-eight.</p> |

A. D. 1899.

| Session & Chapter.        | Short Title.  | Extent of Repeal.  |
|---------------------------|---|--|
| 25 & 26 Vict.,<br>c. 102. | The Metropolis<br>Management<br>Amendment<br>Act, 1862. | In section eight, the words<br>“and the precepts for<br>“obtaining payment of<br>“moneys required by the<br>“board for that purpose.”<br>Sections nine to twelve.<br>Section fourteen.<br>Section fifteen, so far as it<br>relates to vestries and dis-<br>trict boards.<br>Section sixteen.<br>Section thirty-seven, so far<br>as it relates to district<br>boards.<br>Section thirty-eight.<br>Section forty.<br>Section forty-one.<br>In section fifty-six, the<br>words “out of the sewers<br>“rate to be levied in their<br>“parish or district.”<br>In section eighty-four, the<br>words “with the previous<br>“sanction of the Metro-<br>“politan Board of<br>“Works” and the words<br>“allowed by the Metro-<br>“politan Board.”<br>The forms of precept in<br>Schedule C. |
| 48 & 49 Vict.,<br>c. 23.  | The Redistribu-<br>tion of Seats<br>Act, 1885.          | In section twelve the words<br>“and also the town clerk<br>“for the new borough<br>“within the meaning of<br>“the Registration Acts.”  |
| 54 & 55 Vict.,<br>c. 76.  | The Public Health<br>(London) Act,<br>1891.             | Sections one hundred and<br>two and one hundred and<br>forty, and the Second<br>Schedule.  |
| 55 & 56 Vict.,<br>c. 53.  | The Public Lib-<br>raries Act, 1892.                    | Section twenty-two.  |

| Session & Chapter.           | Short Title.  | Extent of Repeal.   |
|------------------------------|---|---|
| 56 & 57 Vict.,<br>c. 73.     | The Local Government Act, 1894.                       | <p>In section thirty-one, the words "the local board of Woolwich and"; the words "and the auditors " for parishes elected "under those Acts, and "so far as respects the "qualification of persons "to be elected as if mem- "bers of the district boards "under the said Acts," and the words "and no "person shall ex- "officio be chairman of "any of the said ves- "tries"; and sub-section (2).</p> <p>At the end of section forty-six, the words "and in "the case of London "auditors as if they were "members of a district "council."</p> <p>In section forty-eight, sub-section (4), the words "and "of members of the local "board of Woolwich"; and in sub-section (5), the words "local board "or" and "or auditor."</p> |
| 56 & 57 Vict.,<br>c. ccxxi.  | The London County Council (General Powers) Act, 1893. | Section fifteen.  |
| 58 & 59 Vict.,<br>c. cxxvii. | The London County Council (General Powers) Act, 1895. | Section forty-two.  |





PART IV.  
APPENDICES.





## APPENDIX A.

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### PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1888 (51 AND 52 VICT., C. 41), WITH RESPECT TO THE CHAIRMAN OF THE COUNTY COUNCIL AND THE COUNTY ALDERMEN, AS APPLIED TO THE MAYOR AND ALDERMEN OF A METRO- POLITAN BOROUGH.

[See *London Government Act*, 1899, *Sect. 2, subs. (4), p. 52.*]

#### 1. AS REGARDS THE MAYOR.

Local Government Act, 1888, *Sect. 2 (5)*. As respects the Mayor of the borough—

(*b*) He shall, by virtue of his office, be a justice of the peace for the county<sup>1</sup>; but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.<sup>2</sup>

The Local Government Act, 1888, *Sect. 75*, applies the provisions of various sections of the *Municipal Corporations Act*, 1882 (45 and 46 Vict., c. 50), relating to the mayor, subject to certain provisos.

<sup>1</sup> This provision must be read with *Sect. 24, p. 124.*

<sup>2</sup> The oaths to be taken are those prescribed by the *Promissory Oaths Act*, 1868 (31 and 32 Vict., c. 72), namely the oath of allegiance and the judicial oath. But a solemn affirmation may be substituted for an oath under the same circumstances as in giving evidence in a court of justice. By the oath of allegiance the deponent promises that he “will be faithful and bear true allegiance to her Majesty Queen Victoria, her heirs and successors, according to law.” By the judicial oath he promises that he “will well and truly serve our Sovereign Lady Queen Victoria, in the office of justice of the peace, and will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill-will.” The *Promissory Oaths Act*, 1871 (34 and 35 Vict., c. 48) enacts (*sect. 2*), that the oaths shall be taken “before such persons as her Majesty may from time to time appoint; or . . . before the Lord High Chancellor of Great Britain; or in the [High Court of Justice] in open court, before one or more of the judges of such court; or in open court at the general or quarter sessions of the peace for the county.”

The provisions applied are:—

Municipal Corporations Act, 1882, Sect. 15 (1). The mayor shall be a fit person<sup>3</sup> elected by the *borough* council from among the aldermen or councillors of the borough, or persons qualified to be such.<sup>4</sup>

(2) An outgoing alderman is eligible.

(3) The term of office of the mayor shall be one year,<sup>5</sup> but he shall continue in office until his successor has accepted office<sup>6</sup> and made and subscribed the required declaration.<sup>7</sup>

(4) He may receive such remuneration as the *borough* council think reasonable.<sup>8</sup>

*id.*—Sect. 61 (2). The election of mayor shall be the first business transacted at the meeting of the *borough* council on the day of election.

(4) In case of equality of votes, the chairman of the meeting,<sup>9</sup> although not entitled to vote in the first instance,<sup>10</sup> shall have the casting vote.

<sup>3</sup> A fit person is a person not disqualified, expressly or by implication. As every alderman and councillor is eligible for the office of mayor, and as these have already satisfied the test of fitness (as will be seen); and as, again, the “persons qualified to be such” must be “fit persons,” the meaning of this expression will be gathered from the statement of disqualifications for the office of councillor (p. 218).

<sup>4</sup> Thus, a person not a member of the council, but qualified to be such, may be elected mayor. Compare note (j) to Sect. 2, p. 55.

<sup>5</sup> The *first* mayor, however, will hold office only until the 9th November, 1901 (Sect. 3, subs. 3, p. 57), or until his successor comes into office. And a mayor elected to fill a casual vacancy will hold office only till the end of his predecessor’s year. (See M. C. A., 1882, Sect. 40, subs. 1, p. 225.)

<sup>6</sup> As to acceptance of office, see p. 222.

<sup>7</sup> For the declaration, see p. 223, note 56.

<sup>8</sup> The mayor’s remuneration or salary may be fixed once for all (though it may be varied from year to year), or may be voted at the beginning of each year. A reasonable addition may be made to it if it is anticipated that in his year of office, by reason of the occurrence of some event of national importance, his expenditure as mayor may be increased (*Att. General v. Mayor, &c., of Cardiff*, 1894, 2 Ch. 337.) But a colourable addition to the mayor’s salary, for the purpose of contributing to an object to which the corporation is not entitled to contribute directly is illegal (*ib.*). The distinction, however, is not always an easy one to appreciate. (See *Att. General v. Corporation of Blackburn*, 57 L. T., 385, [1887]).

<sup>9</sup> That is to say, except at the first meeting, the mayor, as he continues in office until his successor is elected and takes office. But if he is a candidate for re-election, the safest course would be to absent himself during the election. See *Reg. v. Morton*, 1892, 1 Q. B. 39. The Mayor, if present, must preside (M. C. A., 1882, sched. ii., 9).

<sup>10</sup> For example, if the outgoing mayor is an outgoing alderman, he will not be entitled to vote in the election of mayor (see p. 197). But the fact that the mayor is not an alderman or councillor would not, it seems, disentitle him to vote, as he is a member of the council. (See M. C. A., 1882, Sect. 15, subs. 1, *supra*, and M. C. A., 1882, Sect. 38, p. 228).

- [M. C. A., 1882, Sect. 40, and M. C. A., 1882, Sect. 66, casual vacancies in the office of mayor, etc., see p. 225.]
- [M. C. A., 1882, Sect. 41, penalty for acting when unqualified, etc., see p. 220.]
- [M. C. A., 1882, Sect. 42 and Sect. 102, validity of acts done, notwithstanding disqualification, see p. 224.]
- [M. C. A., 1882, Sect. 70, proceeding when election not held, or void, see pp. 228-9.]
- [M. C. A., 1882, Sect. 73 and Sect. 225, election valid unless questioned within twelve months, see p. 229.]
- [M. C. A., 1882, Sect. 34, obligation to accept office or pay fine, and exemptions, see p. 222.]
- [M. C. A., 1882, Sect. 37, re-eligibility, see p. 224.]
- [M. C. A., 1882, Sect. 38, mayor a member of council, see Appendix B., p. 228.]
- [M. C. A., 1882, Sect. 36, resignation of mayor, see p. 224.]
- [M. C. A., 1882, Sect. 102, validity of acts done pending election petition, see p. 225.]

The provisos in Sect. 75 of the L. G. A., 1888, which modify the applied sections of the M. C. A., 1882, with respect to the mayor, are the following :—

Local Government Act, 1888, Sect. 75 (10.) An outgoing alderman shall not as alderman vote in the election of mayor.<sup>11</sup>

L. G. A., 1888, Sect. 75 (16) (b.) This ~~excludes~~ the application of Sect. 15, subs. 5, and Sect. 16 of the M. C. A., 1882. The former gave precedence to the mayor in the borough, and the latter gave him power to appoint a deputy.

L. G. A., 1888, Sect. 75 (16) (c.) Nothing in the Municipal Corporations Act, 1882, as applied by this section shall render a mayor of a *metropolitan borough* disqualified as such by reason of absence.<sup>12</sup>

[*ib.*—Fine for non-acceptance not payable unless nomination consented to, see p. 223, note 58.]

<sup>11</sup> If, however, an outgoing alderman has been elected a councillor and has taken office, he has thereby vacated the office of alderman—*Reg. v. Mayor, &c., of Bangor*, 18 Q. B. D., 349 [1886]. In that case he would presumably be entitled to vote.

<sup>12</sup> But for this saving, the mayor, if continuously absent from the borough for more than two months, except in case of illness, would be disqualified and would vacate his office. M. C. A., 1882, Sect. 39, subs. (1) (b).



[L. G. A., 1888, Sect. 75 (14). Time for acceptance of office, see p. 223, note 57.]

[L. G. A., 1894, Sect. 46, disqualifications, see pp. 218, *sqq.*]

## 2. AS REGARDS THE ALDERMEN.

[L. G. A., 1882, Sect. 2, subs. (2) (a) and (b), certain qualifications for the office, see *infra*, note 16.]

L. G. A., 1888, Sect. 2, subs. (2) (c). A *borough* alderman shall not, as such, vote in the election of a *borough* alderman.<sup>13</sup>

[L. G. A., 1888, Sect. 75 (14). Time for acceptance of office, see p. 223, note 57.]

[L. G. A., 1888, Sect. 75, 16 (c.) Fine for non-acceptance of office not payable unless nomination consented to, see p. 223, note 58.]

M. C. A., 1882, Sect. 14.—(1) The *borough* aldermen shall be fit persons<sup>14</sup> elected by the *borough* council.<sup>15</sup>

(3) A person shall not be qualified to be elected or to be a *borough* alderman, unless he is a *borough* councillor, or qualified to be a *borough* councillor.<sup>16</sup>

But he may if elected a councillor—see note 11 to this Appendix, p. 197.

<sup>14</sup> See note 3 to this Appendix, p. 196.

<sup>15</sup> This must be restricted to mean “by the councillors,” as by the L. G. A., 1888, Sect. 2, subs. (2) (c), *supra*, an alderman cannot vote as such, for an alderman. The mayor, however, even if he is not a councillor, can, it is suggested, vote for aldermen, unless he is an alderman. But not, it seems, if he is. *Bridport Election Petition: Hounsell v. Suttill*, 19 Q. B. D., 498 [1887].

*Pease and others v. Lowden and others* (1899, 1 Q. B., 386) was a case on this sub-section. The day before his term of office expired, an alderman of Pontefract sent in his resignation in writing to the town clerk accompanied by a cheque for the fine payable on resignation. Next day the statutory meeting of the council was held, at which the first business was the election of mayor. The council had not, in the meantime, declared the office of alderman so resigned vacant, as directed by the M. C. A., 1882, Sect. 36, subs. (2). The said alderman, however, was elected mayor, accepted office and subscribed the required declaration; and then presided at the meeting. The next business being the election of aldermen, the said mayor himself voted for certain candidates, and there being then an equality of votes, he gave casting votes. It was held (on a special case stated under Sect. 93, subs. (7) of the M. C. A., 1882) that the office was not vacant until so declared under Sect. 36, subs. (2), and that the votes so given were bad.—*Reg. v. Corporation of Wigan*, 14 Q. B. D., 908 [1885], and *Reg. v. Mayor, &c., of Welchpool*, 35 L. T., 594 [1876], were cited.

<sup>16</sup> For the qualifications of a councillor see p. 216.

An exception to this provision exists in the case of a peer owning property in the borough. He will be qualified to be an alderman by virtue of Sect. 2, subs. (2) (b), of the L. G. A., 1888, which applies to borough aldermen by Sect. 2, subs. (4), p. 52, of the present Act. But that section does not apply to borough councillors, and consequently a peer will not be eligible as a councillor unless qualified in the same way as other persons.

- (4) If a *borough* councillor is elected to, and accepts, the office of *borough* alderman, he vacates his office of *borough* councillor.
  - (5) The term of office of a *borough* alderman shall be six years.<sup>17</sup>
  - (6) On the ordinary day of election of *borough* aldermen<sup>18</sup> in every third year, one-half of the whole number of *borough* aldermen shall go out of office, and their places shall be filled by election.<sup>19</sup>
  - (7) The half to go out shall be those who have been *borough* aldermen for the longest time without re-election.<sup>20</sup>
- M. C. A., 1882, Sect. 60.—(2) The election of *borough* aldermen shall be held immediately after the election of the mayor.<sup>21</sup>
- (4) Every person entitled to vote may vote for any number of persons, not exceeding the number of vacancies, by signing and personally delivering at the meeting to the chairman of the meeting,<sup>22</sup> a voting paper containing the surnames and other names,<sup>23</sup> and places of abode,<sup>24</sup> and descriptions of the persons for whom he votes.
  - (5) The chairman of the meeting,<sup>22</sup> as soon as all the voting papers have been delivered to him, shall openly produce

<sup>17</sup> Subject, of course, in the case of the first aldermen to the next subsection ; and also subject to the provisions of Sect. 40, subs. (1), see p. 225, that an alderman filling a casual vacancy will hold office only for the residue of his predecessor's term.

<sup>18</sup> Namely, November 9th, see the present Act, Sect. 3, subs. (3), p. 57.

<sup>19</sup> Except that the time for the retirement of the first aldermen will be fixed by Order in Council under the present Act, Sect. 27, subs. (1) (b), p. 127 ; and the aldermen who are to retire at that time will be determined by ballot by the councillors at the time of the election of the aldermen. See L. G. A., 1888, Sect. 104, subs. (2). See note (c) to Sect. 27, p. 129.

<sup>20</sup> See last note. If there is an odd number of aldermen, the larger half will retire first.—L. G. A., 1888, Sect. 104, subs. (2), p. 129.

<sup>21</sup> That is, of course, in every third year only. Thus the first business at the November meeting will be the election of mayor, and the next that of aldermen. It was held long ago under the M. C. A., 1835, that this order of business must be strictly observed. See *R. v. Parkyns*, 3 B. and A., 658 ; *Reg. v. McGowan*, 11 A. and E., 869.

<sup>22</sup> That is, in general, the mayor. See note 9 to this Appendix, p. 196.

<sup>23</sup> “*Surnames and other names.*”—As to misnomers and inaccurate descriptions see M. C. A., 1882, Sect. 241.

<sup>24</sup> “*Places of abode.*”—A candidate's place of business will not as such satisfy this requirement.—*Reg. v. Deighton*, 5 Q. B., 896 [1844] ; though an inaccurate description of his real place of abode is curable under Sect. 241.

and read them, or cause them to be read, and then deliver them to the town clerk to be kept for twelve months.

(6) In case of equality of votes, the chairman, although as a borough alderman or otherwise not entitled to vote in the first instance,<sup>15</sup> shall have the casting vote.

(7) The persons, not exceeding the number of vacancies, who have the greatest number of votes, shall be declared by the chairman to be, and thereupon shall be, elected.

[M. C. A., 1882, Sect. 34, obligation of aldermen to accept office or pay fine, and exemptions, see pp. 222 *sqq.*]

[M. C. A., 1882, Sect. 35, aldermen not to act till after making declaration, see p. 223.]

[M. C. A., 1882, Sect. 36, alderman may resign, and how, see p. 224.]

[M. C. A., 1882, Sect. 37, re-eligibility, see p. 224.]

[M. C. A., 1882, Sect. 38, aldermen members of council, see p. 228.]

[M. C. A., 1882, Sect. 39, disqualification for absence, see p. 220.]

[M. C. A., 1882, Sect. 40 and Sect. 66, casual vacancies, see p. 225.]

[M. C. A., 1882, Sect. 41, penalty for acting when disqualified, see p. 220.]

[M. C. A., 1882, Sect. 42 and Sect. 102, validity of acts and proceedings notwithstanding disqualification, see p. 224.]

[M. C. A., 1882, Sect. 70, proceedings when election void, or not held, see p. 228.]

[M. C. A., 1882, Sects. 73 and 225, *quo warranto* will not lie, nor can election be questioned, after twelve months, see p. 229.]

[L. G. A., 1894, Sect. 46, disqualifications, see p. 218.]



## APPENDIX B.

STATUTORY PROVISIONS RELATING TO THE CONSTITUTION, ELECTION AND PROCEEDINGS OF ADMINISTRATIVE VESTRIES, AND TO THE ELECTORS AND MEMBERS THEREOF, WHICH ARE APPLIED UNDER THE ACT TO BOROUGH COUNCILS, AND THE ELECTORS AND COUNCILLORS THEREOF, AS SO APPLIED.

[See *London Government Act*, 1899, *Sect. 2, subs. (5)*, *p. 53*.]

## 1. WITH RESPECT TO CONSTITUTION.

[The constitution of the borough councils is given in the Act itself, *Sect. 2, subss. (1) to (3)*, *p. 52*. These provisions supersede those of the *Metropolis Management Acts*, and of the *Local Government Act*, 1894, with respect to vestries, so far as the general lines of their constitution are concerned. The provisions with regard to the electorate and to elections, and to the qualifications and terms of office of the members of the vestries, may, in a wider sense be regarded as part of the constitution; these as applied to the metropolitan boroughs will be given under the following heads.]—

## 2. WITH RESPECT TO ELECTION.

*Metropolis Management Act*, 1855, *Sect. 10*.—At every election of *councillors* for any *metropolitan borough* or any ward of a *borough* the electors of such *borough* entitled to vote in such election shall elect as many *councillors* as there are vacancies in the *council* or among the *councillors* elected for such ward, whether such vacancies be occasioned by the expiration of the term of office, or by death or otherwise.

*Local Government Act*, 1894 (56 and 57 *Vict.*, *c. 73*), *Sect. 23, subs. (4)*. Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected.

*ib.*—subs. (5). The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board.<sup>1</sup>

*ib.*—Sect. 48, subs. (2.) Rules framed under this Act by the Local Government Board in relation to elections, shall, notwithstanding anything in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things—

- (i.) For every candidate being nominated in writing by two parochial electors, as proposer and seconder, and no more ;
- (ii.) For preventing an elector from subscribing a nomination paper, or voting in more than one ward ;
- (iii.) For fixing, or enabling the County Council to fix, the day of the poll ;
- (iv.) For the polls at elections held at the same date and in the same area being taken together, except where this is impracticable.
- (v.) For the appointment of returning officers for the elections.<sup>2</sup>

*ib.*—subs. (3). At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot

<sup>1</sup> The above provisions were for elections to Urban District Councils ; but the same Act (Sect. 31, subs. 1) expressly applied them to the elections to the Metropolitan Vestries, with the additional provision that “the poll (if any) shall commence at eight o’clock in the forenoon, and be kept open till eight o’clock in the afternoon of the same day and no longer,” under the Elections (Hours of Poll) Act, 1885 (48 Vict., c. 10).

<sup>2</sup> The rules made by the Local Government Board under this provision, have, as expressly provided by the sub-section, the force of law. Those now in force are contained in “The Vestrymen and Auditors’ (London) Election Order, 1898,” of March 25th, 1898. These rules deal with the requirements of the above sub-section. They also contain provisions as to returning officers, withdrawals of candidates, the formation of polling districts, presiding officers at polling stations, polling agents, the operation of the voting, counting the votes and publishing the result ; and as to other matters of detail. There are five schedules appended to the Order. The first schedule gives a table of times for proceedings at elections, and the second contains forms of nomination papers and other documents required in connection with elections. The third, fourth and fifth schedules embrace respectively the provisions of the Ballot Act, 1872 ; those of Sections 74 and 75 and Part IV. of the Municipal Corporations Act, 1882, as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 ; and those of the Municipal Corporations Act, 1882, which relate to acceptance of office, the declaration on acceptance, resignation of office, re-eligibility and the filling of casual vacancies, which are made applicable by Sect. 48 of the L. G. A., 1894 ; adapted and altered as authorized by subs. (3) of that section. These rules and schedules it would be useless to set out here, as a new code will have to be framed and published for the purposes of Metropolitan borough elections. In this new code the same topics will be included, and it will doubtless greatly resemble in plan and substance that which is now superseded.

Act, 1872 (35 and 36 Vict., c. 33), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 and 48 Vict., c. 70), and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50) as amended by the last-mentioned Act (including the penal provisions of those Acts), shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election, provided that—

- (a) Section six of the Ballot Act, 1872,<sup>3</sup> shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to, free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and
- (b) Section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.<sup>4</sup>

*ib.*—Subs. (4.) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of elections of councillors of a borough, and to

<sup>3</sup> Ballot Act, 1872 (35 & 36 Vict., c. 33), Sect. 6: The returning officer at a *borough* election may use, free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room, the expense of maintaining which is payable out of any local rate ; but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

<sup>4</sup> Municipal Elections (Corrupt and Illegal Practices Act), 1884 (47 & 48 Vict., c. 70), Sect. 37: The provisions of this Act, which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election ; and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to [any of the elections mentioned in the First Schedule to this Act] *elections of councillors for metropolitan boroughs*.

*Note* :—Thus borough councillors will be exempt from the provisions which, in the case of Municipal and County Councillors, as well as members of the House of Commons and candidates for those offices, impose a maximum limit on the expenses which may be incurred, and require a return and declaration of expenses to be made.



the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies,<sup>5</sup> and section fifty-six of that Act,<sup>6</sup> shall, subject to the adaptations, alterations, and exceptions made by the said rules,<sup>7</sup> apply in the case of *borough councillors under this Act*.<sup>8</sup>

Provided that—

(b) Nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election.

*ib.*—Subs. (5). If any difficulty arises as respects the election of any individual councillor, and there is no provision for holding another election, the County Council may order a new election to be held, and give such directions as may be necessary for the purpose of holding the election.

*ib.*—Subs. (6). Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions

<sup>5</sup> As was stated in Note 2 to this Appendix, p. 202, these provisions, adapted and altered, were embodied in the rules published by the Local Government Board in the Vestrymen and Auditors (London) Election Order, and in the fourth and fifth schedules to that Order. For the applied sections see part 6 of this Appendix, pp. 222 *sqq.*

<sup>6</sup> Municipal Corporations Act, 1882, Sect. 56 :—

- (1) If the number of valid nominations exceed that of the vacancies, the councillors shall be elected from among the persons nominated.
- (2) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.
- (3) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and such of the retiring councillors for the borough or ward as were highest on the poll at their election, or, if the poll was equal, or there was no poll, as are selected for that purpose by the mayor,\* shall be deemed to be re-elected to make up the required number.
- (4) If there is no valid nomination, the retiring councillors shall be deemed to be re-elected.

<sup>7</sup> As to these rules, see note 2 to this Appendix, p. 202.

<sup>8</sup> The words in italics are, of course, the words of adaptation, and “this Act” means the London Government Act, 1899.

\* By the L. G. A., 1888, Sect. 75 (4), this power, in reference to the election of county councillors, is given to the returning officer. It is doubtful how far this alteration would apply to the metropolitan boroughs, but the point will probably be settled by the Local Government Board rules.

and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

*ib.*—Subs. (7). The expenses of any election<sup>9</sup> under this Act shall not exceed the scale fixed by the County Council,<sup>10</sup> and if at the beginning of one month before the first election under this Act the county council have not framed any such scale, the Local Government Board may frame a scale for the

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<sup>9</sup> By this is not meant the expenses incurred by candidates, as no return of these is required, see note 4 to this Appendix, p. 203. The expenses here referred to are the official expenses, *i.e.*, those of the returning officer and the council in the holding of the election. We have seen in Subs. (4), p. 203, that the provisions of the M. C. A., 1882, with respect to these expenses, as adapted by the rules of the Local Government Board, are to apply. There has been hitherto no such adaptation. The M. C. A., 1882, Sect. 140 (read with Sched. III., Part III., rule 5, and with Sched. V., Part II., rule 1, of that Act), simply provides that these expenses shall be charged on the borough fund. They will, under the present Act, be paid out of the general rate. See Sect. 10, subs. (1), p. 87.

<sup>10</sup> A scale of expenses was accordingly published by the London County Council for vestry elections. It is presumably open to the County Council to fix a new scale under the present Act. The following is the scale now in operation :—

SCALE OF EXPENSES fixed by the London County Council under Sect. 48 (7) of the Local Government Act, 1894, to be allowed to returning officers in relation to the holding of . . . . annual elections of Vestrymen under the provisions of the said Act.

#### CONTESTED WARD ELECTIONS.

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| 1. For hire of rooms or buildings for polling, or expenses attending the use of such rooms or buildings. | Actual cost. |
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*Note.*—The amount to be paid in respect of the use of any school receiving a grant out of moneys provided by Parliament or out of a local rate, by way of expenses for the use of such school, should not exceed 21s. in the season when heating as well as lighting is required, and 15s. in the season when heating is not required.

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| 2. For fitting up a polling station . . . . .        | Actual cost. |
| 3. For each ballot box (whether purchased or hired). | Actual cost. |

*Note.*—No ballot box must be purchased or hired if there are a sufficient number in the possession of the parochial authorities.

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|---|---|
| 4. For printing and providing ballot papers, per thousand | Not exceeding 17s. 6d. when not more than six names, and 1s. 6d. for every additional name. |
| 5. For stationery at each polling station . . . . .       | Not exceeding 3s. 6d.   |
| 6. For each stamping instrument . . . . .                 | Actual cost.  |
| 7. For copies of the register . . . . .                   | The sums payable by statute for the necessary copies.                                       |
| 8. For each presiding officer (to include all expenses).  | Not exceeding £2 10s.   |

county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

### 3. WITH RESPECT TO PROCEEDINGS.

Metropolis Management (Amendment) Act, 1862 (25 and 26 Vict., c. 102), sect. 37. Every *borough council* may hold their meetings on such days of the week, except Sundays, as they may from time to time determine, notwithstanding any provision to the contrary contained in any local Act; and any business which, by any local or other Act of Parliament, or custom, should be done by any such *council* on a certain day, may be done at any meeting of such *council* duly convened for the purpose, and held within seven days next before or after such certain day as aforesaid.

Local Government Act, 1894 (56 and 57 Vict., c. 73), sect. 31, subs. (3). Nothing in any local and personal Act shall

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| 9. For each clerk at a polling station (to include all expenses)  | Not exceeding £1.   |
| 10. For every person employed in counting votes (to include all expenses)   | 2s. per hour.   |
| 11. For conveyance of ballot boxes ... ..   | 1s. per mile, with a minimum of 2s. for each polling station.   |
| 12. General fee for conducting the election, preparing and publishing all notices, preparing and supplying nomination papers, distributing, filling up, verifying and adjudicating on same, conducting poll, declaring result and making return, to include all expenses for professional and other assistance, travelling expenses, and all other costs, charges, and expenses whatsoever incurred in and about the conduct of the election, save and except the items for which special provision has been hereinbefore made. | <p><i>At the first election (of the whole body):—</i><br/>           Not exceeding £8 for each contested ward, and an additional £1 for every 500 registered electors or fraction thereof above 2,000 in each contested ward.</p> <p><i>At an election of one-third of the body:—</i><br/>           Not exceeding £7 for each contested ward, and an additional £1 for every 500 registered electors or fraction thereof above 2,000 in each contested ward.</p> |

*Note.*—In the case of an undivided parish, or of a parish divided into only two wards, a general fee not exceeding £25 may, if the remuneration according to this scale appear to the Vestry inadequate, be paid to the returning officer.

### UNCONTESTED WARD ELECTIONS.

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| A general fee, to include all costs, charges, and expenses whatsoever incurred in and about the conduct of the election. | Not exceeding £4 for each uncontested ward. |
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prevent any *borough council* from holding their meeting at such time as may be directed by the *council*.<sup>11</sup>

Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), Schedule II. :—

Rule 3. The mayor may at any time call a meeting of the council.

Rule 4. If the mayor refuses to call a meeting after a requisition for that purpose, signed by five members of the council, has been presented to him, any five members of the council<sup>12</sup> may forthwith, on that refusal, call a meeting. If the mayor (without so refusing) does not within seven days after such presentation call a meeting, any five members of the council<sup>12</sup> may, on the expiration of those seven days, call a meeting.

Rule 6. Three clear days at least before any meeting of the council, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the town clerk, shall be left or delivered by post in a registered letter at the usual place of abode of every member of the council, three clear days at least before the meeting.<sup>13</sup>

Rule 7. Want of service of the summons on any member of the council shall not affect the validity of a meeting.

Rule 8. No business shall be transacted at a meeting other than that specified in the summons relating thereto.<sup>14</sup>

Rule 9. At every meeting of the council, the mayor, if present, shall be chairman.<sup>15</sup>

Rule 10. All acts of the council, and all questions coming or arising before the council, may be done and decided

<sup>11</sup> There must, in general, be a meeting on the 9th of November, to elect the mayor.

<sup>12</sup> Not necessarily the five who signed the requisition.

<sup>13</sup> The corresponding provision of the Metropolis Management (Amendment) Act, 1856 (19 and 20 Vict., c. 112), Sect. 9, does not require that the letter should be registered, nor necessarily that it should go through the post.

<sup>14</sup> Except statutory business, such, for example, as the election of mayor or aldermen; but in practice such business will doubtless be stated in the summons.

<sup>15</sup> The rule goes on to provide that in the absence of the mayor, the deputy-mayor or an alderman shall preside; and if the deputy-mayor and all the aldermen are absent, then such councillor as the members present shall choose. In the present Act, there is no express provision for a deputy-mayor. Compare, however, Metropolis Management Act, 1855, Sect. 30.

by the majority<sup>16</sup> of such members of the council as are present and vote<sup>17</sup> at a meeting held in pursuance of this Act.

Rule 11. In case of equality of votes, the chairman of the meeting shall have a second or casting vote.

Rule 12. Minutes of the proceedings of every meeting shall be drawn up and fairly entered in a book kept for that purpose, and shall be signed in manner authorized by this Act.<sup>18</sup>

Metropolis Management Act, 1855 (18 and 19 Vict., c. 120), sect. 57. No resolution or other act of a *borough council* shall be revoked or altered at any subsequent meeting, unless such subsequent meeting be specially convened for the purpose, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the members of the council present at such subsequent meeting, if the number of members present at such subsequent meeting be not greater by one-fifth than the number present when such resolution was made or such act was done, but if the number of members present at such subsequent meeting be greater by one-fifth than the number present at such former meeting, then such revocation or alteration may be determined upon by a mere majority.

*ib.*—Sect. 60. Entries of all proceedings of every *borough council*, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the *council*, and shall be signed by the members present, or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the *council* having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being present thereat,

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<sup>16</sup> There are cases, however, where a bare majority will not suffice (see in the present Act, Sect. 2, subs. 8, p. 53; and note (s) to Sect. 6, p. 81). Again, there are purposes for which a special quorum is required, *e.g.*, for making bye-laws under Sect. 23 of the M. C. A., 1882. (See Introduction, p. 28).

<sup>17</sup> “*And vote.*” These words do not appear in the corresponding provision of the Metropolis Management Act, 1855, viz., Sect. 28. The above rule seems the more consistent, as if the wording of Sect. 28 of the M. M. A., 1855, were strictly followed it would be impracticable to put the mayor’s casting vote into operation if there were an equality of votes, but some members abstained from voting.

<sup>18</sup> Namely, at the same or the next ensuing meeting, by the mayor or by a member of the council describing himself as, or appearing to be, chairman of the meeting at which the minute is signed.—M. C. A., 1882, Sect. 22, subs. (5).



or of such persons being members of the council, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved, and every such *council* shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid by them or under their authority, and of all liabilities incurred by them, and of the several purposes for which such sums of money are received and paid, and such liabilities incurred, and copies of all contracts entered into by any such *council*.

*ib.*—Sect. 61. All such books shall at all reasonable times be open to the examination of every member of the *council* to which such books belong, and of every owner of property [churchwarden, overseer<sup>19</sup>] and ratepayer,<sup>20</sup> within any *borough* as regards books belonging to the *council of that borough*, and of every creditor on the rates raised under this Act<sup>21</sup> by any such *council*, without fee or reward, and they respectively may take copies of or extracts from such books or any part thereof, without paying for the same; and in case the members of the *council*, or any of them, or any of the officers or servants of the council having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any such owner of property [churchwarden, overseer,<sup>19</sup>] ratepayer,<sup>20</sup> or creditor to examine the same, or take any copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before two justices,<sup>22</sup> forfeit any sum not exceeding ten pounds.

*ib.*—Sect. 202. Every *borough council* may, from time to time, make, alter and repeal bye-laws for all or any of the purposes following; (that is to say) for regulating the business and proceedings at their meetings and of committees appointed by them, the appointment and removal of their officers and servants,

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<sup>19</sup> It is suggested that churchwardens as such will not have the right of examination, etc., under the present Act. See Sect. 23, p. 120, and Sect. 31, subs. (2), p. 137. And as the borough councils are to be the overseers (Sect. 11, subs. 1, page 89), the same remark applies to them.

<sup>20</sup> For this should be substituted, or at least to this should be added, “parochial elector,” by virtue of Sect. 23, subs. (3), of the L. G. A., 1894, for which see part 4 of this Appendix, p. 212.

<sup>21</sup> This expression must be understood as referring to the present Act.

<sup>22</sup> By the Stipendiary Magistrates Act, 1858 (21 and 22 Vict., c. 73), Sect. 1, it is provided (subject to certain savings in Sect. 3), that a stipendiary magistrate may exercise alone any jurisdiction which may be exercised by two justices; and the Acts relating to the powers of metropolitan magistrates give them, in general cases, similar powers.



and the duties, conduct, and remuneration of such officers and servants; . . . and every such *council* may thereby impose such reasonable penalties as they think fit, not exceeding forty shillings, for each breach of such bye-laws, and in case of a continuing offence a further penalty not exceeding twenty shillings for each day after notice of the offence from the council: Provided always, that under every such bye-law it shall be lawful for the justices<sup>22</sup> before whom any penalty imposed thereby is sought to be recovered, to order the whole or part only of such penalty to be paid, or to remit the whole penalty: Provided also, that no bye-laws shall be repugnant to the laws of England or to the provisions of this Act<sup>21</sup>; and that no bye-law shall be of any force or effect unless and until the same be submitted to and confirmed at a subsequent meeting of the *council*: Provided also, that no penalty shall be imposed by any such bye-law unless the same be approved by one of Her Majesty's Principal Secretaries of State.

*ib.*—Sect. 203. All bye-laws made and confirmed as aforesaid in pursuance of this Act<sup>21</sup> shall be printed, and hung up in the principal office of the *council*, and be open to public inspection without payment, and copies thereof shall be delivered to any person applying for the same, on payment of such sum, not exceeding twopence, as the *council* shall direct; and such bye-laws, when so published, shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same; and the production of a printed copy of such bye-laws, authenticated by the seal of the *council*, shall be evidence of the existence, and of the due making, confirmation, and publication of such bye-laws, in all prosecutions under the same, without adducing proof of such seal or of the fact of such confirmation or publication of such bye-laws.

*ib.*—Sect. 198. Every *borough council* shall in the month of June in every year cause to be printed . . . a report of their proceedings in the execution of this Act,<sup>21</sup> and of the works commenced and completed respectively in the preceding year by such *council*, and the works remaining in progress at the termination of such year, and also of any proceedings taken by them or under their authority in the preceding year, in pursuance of any regulations of the *Local Government Board*<sup>23</sup>

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<sup>23</sup> Substituted for the General Board of Health, which was constituted under the Public Health Act, 1848 (11 and 12 Vict., c. 63).

for the time being in force, or otherwise, for the removal of nuisances or the improvement of the sanitary condition of their borough; . . . and every such *council* shall in the said month of June send a copy of every such . . . report, together with a printed list of the names and addresses of the members of such *council*, and of their officers to the *London County Council*<sup>24</sup>; and every such *council* shall permit inspection at their office of a copy of any such . . . report by any ratepayer<sup>20</sup> in their borough, without payment, at all reasonable times, and shall also permit the like inspection by the public generally of such list of officers; and copies of such .

. . . report and list of officers shall be delivered to any person applying for the same, on payment of such reasonable sums, not exceeding twopence for each such copy, as may be fixed by such *council* in this behalf.<sup>25</sup>

*ib.*—Sect. 58. It shall be lawful for any *borough council* to appoint a committee or committees for any purposes which, in the discretion of the *council*, would be better regulated and managed by means of such committee, and at any meeting to continue, alter, or discontinue such committee.<sup>26</sup>

*ib.*—Sect. 59. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless three members of the committee are present.<sup>27</sup>

<sup>24</sup> Originally the Metropolitan Board of Works, to whom the London County Council were made successors by the L. G. A., 1888, Sect. 40, subs. (8).

<sup>25</sup> To this annual report must be appended the annual report of the medical officer of health appointed under the Public Health London Act, 1891 (54 and 55 Vict., c. 76), Sect. 106, p. 249. See Introduction, p. 33.

As to the annual return of receipts and expenditure to the Local Government Board, see p. 98.

<sup>26</sup> The section went on to provide, however, that the Acts of every such committee shall be submitted to the general body for their approval. But this will not necessarily be required under the present Act, as by Sect. 8, subs. (2), p. 83, if the council so direct, a committee may act independently. The proviso is accordingly repealed by the present Act, Sched. III. Compare note (c) to that section, p. 84. It was held, however, that where a committee of the vestry of Shoreditch acted without the previous approval of the vestry, this subsequent approval rendered the act of the committee valid as from the time when the act was done, under the general doctrine of ratification (*Firth v. Staines*, 1897, 2 Q. B., 70).

<sup>27</sup> A committee therefore must consist of at least three members. The operation of the above section may be restricted by bye-laws made by the council under Sect. 202 of the M. M. Act, 1855, *supra*, p. 209. No express provisions exist for the formation of sub-committees; obviously a sub-committee can be advisory only.



## 4. WITH RESPECT TO THE ELECTORS.

Local Government Act, 1894 (56 and 57 Vict., c. 73), sect. 23, subs. (3).<sup>28</sup> The parochial electors of the parishes in *every metropolitan borough* shall be the electors of the councillors for the *borough*, and if the borough is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward.

*ib.*—Sect. 2, subs. (1). [The parochial electors are] the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish.<sup>29</sup>

*ib.*—Sect. 44 (1). The local government register of electors and the parliamentary register of electors, so far as they relate to a *metropolitan borough*, shall together form the register of the parochial electors of the parishes in such *borough*: and any person whose name is not in that register shall not be entitled to vote as a parochial elector, and any person whose name is in that register shall be entitled to vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.<sup>30</sup>

<sup>28</sup> Applied to London Vestries by Sect. 31, subs. (1), of the L. G. A., 1894, and consequently to the metropolitan boroughs by Sect. 2, subs. (5), of the present Act, p. 53.

<sup>29</sup> Interpretation Act, 1889 (52 and 53 Vict. c. 63), Sect. 17 (2). The expression "Parliamentary register of electors" shall mean a register of persons entitled to vote at any parliamentary election.

*ib.*, Sect. 17 (3). The expression "Local Government register of electors" shall mean . . . the county register. *Note.*—The "County register" is the register of county council electors.—See County Electors Act, 1888 (51 Vict., c. 10), Sect. 7, subs. (2).

<sup>30</sup> *Statutory disqualifications of voters.*—(a) Corrupt and illegal practices.—A conviction for any corrupt practice disqualifies for seven years. (Corrupt, &c., Practices Act, 1883—46 and 47 Vict., c. 51, Sect. 6, subs. (3); Municipal Elections (Corrupt, &c., Practices Act, 1884—47 and 48 Vict., c. 70, Sect. 2, subs. (2)). A conviction for an illegal practice disqualifies for five years (Corrupt, &c., Practices Act, 1883, Sect. 10); Municipal Elections (Corrupt, &c., Practices) Act, 1884, Sect. 7.

(b) Employment.—A person legally employed for payment as a clerk, messenger, or polling agent at an election, may not vote at that election.—Municipal Elections (Corrupt, &c., Practices) Act, 1884, Sect. 13, subs. (3).

(c) Corruption by or of persons in office, in the event of a second conviction, disqualifies for seven years.—Public Bodies Corrupt Practices Act, 1889 (52 and 53 Vict., c. 69), Sect. 2 (d).

(d) Pauperism.—The receipt of parochial relief (either to the elector himself or to his wife or child) at any time during the year preceding the election disqualifies for that election.—Divided Parishes and Poor Law Amendment Act, 1876 (39 and 40 Vict., c. 61), Sect. 14. But this does not apply to the receipt of medical relief.—Medical Relief Disqualification



(2) Where the *borough* is in a parliamentary borough,<sup>31</sup> such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the *borough* shall be deemed to form part of the parliamentary register of electors for the borough within the meaning of this section.

(3) The list and register of electors in any *borough* shall be framed in parts for the wards of *such borough* in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.<sup>32</sup>

(5) Where in that portion of the parliamentary register of electors which relates to a *metropolitan borough* a person is entered to vote in a polling district other than the district comprising the *borough*, such person shall be entitled to vote as a parochial elector for that *borough*, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6) Where the revising barrister in any list of voters for a parish would—

(a) In pursuance of section seven of the County Electors Act, 1888 (51 Vict., c. 10), place an asterisk or other mark against the name of any person<sup>33</sup>; or

(b) In pursuance of section four of the Registration Act,

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Removal Act, 1885 (48 and 49 Vict., c. 46). Nor does it apply to payment of a child's school fee by the Guardians.—Elementary Education Act, 1876 (39 and 40 Vict., c. 79), Sect. 10.

(e) Crime.—Conviction for treason or felony disqualifies until the sentence is served or a free pardon given.—Forfeiture Act, 1870 (33 and 34 Vict., c. 23), Sect. 2.

(f) Infancy, which in law lasts till the person is 21 years of age.—Representation of the People Act, 1867 (30 and 31 Vict., c. 102), Sect. 3, &c.—Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), Sect. 9, subs. (2 a), &c.

(g) Alienage.—M. C. A., 1882, Sect. 9, subs. (3).

<sup>31</sup> South Hornsey is not within a parliamentary borough.

<sup>32</sup> Thus a properly qualified person may vote in more than one borough, if registered. But he will be prevented from voting in more than one ward of the same borough, by the application of Sect. 48, subs. (2) (ii), of the L. G. A., 1894, for which see Part 2 of this Appendix, p. 202.

<sup>33</sup> The section in question requires the revising barrister, in lieu of erasing a name in pursuance of Sect. 4 of the Registration Act, 1885 (as to which see next note), to place an asterisk or other mark against the name. A person against whose name such asterisk or other mark is placed will be disqualified as a parliamentary elector, but not as a county elector.

1885 (48 and 49 Vict., c. 15), erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish<sup>34</sup>; or

- (c) In pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878 (41 and 42 Vict., c. 26), as amended by section five of the Registration Act, 1885, place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list,<sup>35</sup> the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list,<sup>36</sup> or if he is entitled to vote only as a parochial elector,<sup>37</sup> a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors,<sup>29</sup> or in a separate list of parochial electors.

<sup>34</sup> The section in question requires the revising barrister, where the name of the same person is entered more than once as a parliamentary voter on the list of voters for the same parliamentary county, to retain one entry and erase the others, and contains provisions as to which entry is to be retained (subs. 9).

<sup>35</sup> Section 28 of the Parliamentary and Municipal Registration Act, 1878, requires the revising barrister, where the name of the same person is entered more than once as a parliamentary voter on the list of voters for the same parliamentary borough, or as a burgess on the burgess lists for the same municipal borough, to retain one of the entries for voting, and place against the other or others a note to the effect that the person is not entitled to vote in respect of the qualification therein contained (subs. 14). The amendment in Sect. 5 of the Registration Act, 1885, refers to the provisions as to which of the entries is to be retained for voting.

<sup>36</sup> Division three contains the names of persons entitled to vote in county council elections (and consequently in borough council elections under the present Act), but not in parliamentary elections. It includes unmarried women, and occupiers residing above seven but within fifteen miles of the parish (or borough).

<sup>37</sup> That is, for the purposes of the present Act, entitled to vote in borough elections, but not in county council or municipal elections. Such are married women, and occupiers residing more than fifteen miles from the parish (or borough). As to married women (L. G. A., 1894, Sect. 43): For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.



(7) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8) Such separate list<sup>38</sup> shall form part of the register of parochial electors of the parish,<sup>39</sup> and shall be printed at the end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9) Any person may claim for the purpose of having his name entered in the parochial electors' list, and the law relating to claims to be entered in the lists of voters shall apply.

(10) The clerk of the county council or town clerk, as the case may be,<sup>40</sup> shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.<sup>41</sup>

<sup>38</sup> That is, the separate list referred to in subs. (6) *supra*.

<sup>39</sup> Who will be, under the present Act, the electors for the metropolitan borough council.

<sup>40</sup> The clerk of the county council has to make up the county register, both for the county and for each county electoral division.—County Electors Act, 1888 (51 and 52 Vict., c. 10), Sect. 7 (1). The town clerk has to make up the lists of parliamentary and parochial electors for the borough, by virtue of sect. 4, subs. (1), of the present Act, p. 57.

<sup>41</sup> The following is a summary view of the qualifications of electors for metropolitan boroughs under the present Act, subject in every case to the statutory disqualifications (see note 30 *supra*, p. 212), and to common law disabilities (which are included in the expression "legal incapacity" employed in the Registration Acts), viz., idiocy, insanity (but a lunatic may give a valid vote in a lucid interval), drunkenness :—

1. The Ten Pound Occupation Franchise, *i.e.*, occupation as owner or tenant, during the whole twelve months\* immediately preceding the fifteenth day of July, of some land or tenement in the borough of the clear yearly value of not less than ten pounds, *and* residence in or within fifteen miles of the administrative county of London during six months immediately preceding the fifteenth day of July.

2. The Household Franchise, *i.e.*, on the fifteenth day of July in any year being, and during the whole of the twelve months immediately preceding\* having been an inhabitant occupier of some dwelling-house in the borough or of some part of a house separately occupied as a dwelling.



## 5. WITH RESPECT TO THE MEMBERS.

Local Government Act, 1894 (56 and 57 Vict., c. 73), sect. 23, subs. (2).<sup>28</sup> A person shall not be qualified to be elected or

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3. The Old Burgess Franchise, *i.e.*, being on the fifteenth day of July in any year, and having been during the whole of the twelve months immediately preceding\* an occupier of a house, warehouse, counting-house, shop, or other building in the borough, *and* having resided during those twelve months in the administrative county of London or within fifteen miles thereof.

4. The Service Franchise, *i.e.*, when a man inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service or employment.

In all the above cases the person to be registered, or some other person, must have been rated to all poor rates made in the preceding twelve months in respect of the land, tenement or house, and all sums due for any poor rate made during the twelve months preceding the 5th of January must have been paid on or before the 20th July.

In the case of the £10 occupation franchise, if two or more persons jointly are such occupiers, and the value of the land or tenement is sufficient to give ten pounds or more for each occupier, each is entitled to be registered.

In the case of the old burgess franchise, if two or more persons are joint occupiers, each is entitled to be registered.

But there is no corresponding qualification for joint occupiers of a house who are not entitled to the £10 qualification.

If a person has occupied different lands, tenements, or houses in the borough, in immediate succession during the qualifying period, he will be entitled to be registered for the ward in which the last occupied land, tenement or house is situate.

5. The Ownership Franchise, *i.e.*, forty shilling freeholders under 8 Hen. VI., c. 7, freeholders of estates between 40 shillings and £5 holding from before the Reform Act of 1832, or through or in descent from a holder before that Act, freeholders and copyholders and long leaseholders of not less than £5 a year, and leaseholders of a twenty years' lease at not less than £50 a year.

6. The Lodger Franchise, *i.e.*, having occupied separately as a lodger for the whole twelve months immediately preceding the fifteenth day of July, part of one and the same dwelling house in the borough of a clear yearly value, unfurnished, of £10 or upwards, and having resided there during the twelve months.†

Where lodgings are jointly occupied by more than one lodger, and the clear yearly value of the lodgings if let unfurnished is of an amount, which when divided by the number of the lodgers, gives a sum of not less than ten pounds for each lodger, then such lodger, if otherwise qualified, shall be entitled to be registered . . . as a lodger, provided that not more than two persons being such joint lodgers shall be entitled to be registered in respect of such lodgings.

Successive occupation of different lodgings *in the same house* will reckon in the qualifying period. Lodgers must send in a claim to be registered every year.

7. The Separate List, *i.e.*, single women entitled to be placed on the county register, and married women entitled to be on the register of parochial

\* Absence for any period not exceeding four months at any one time in the performance of any service or employment, will not disqualify; and a householder or old burgess may be absent for a like period without disqualification if he permits his house during his absence to be occupied as a furnished house by some other person.

† Nevertheless, a lodger will not be disqualified by reason only that during part of the qualifying period not exceeding four months at any one time, he has, in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, been absent from his lodging.

to be a borough councillor unless he is a parochial elector<sup>42</sup> of some parish within the borough, or has during the whole

electors, persons whose names have been transferred by the revising barrister under the L. G. A., 1894, Sect. 44, subs. (6), and persons not in any other list falling under the description of "parochial electors" in the L. G. A., 1894, Sect. 75, subs. (2).\*

The foregoing summary gives the substance of provisions found in many Acts of Parliament, chiefly the following:—

The Representation of the People Acts, 1832 (2 and 3 W. IV., c. 45), 1867 (30 and 31 Vict., c. 102), and 1884 (48 and 49 Vict., c. 3), which contain the general enactments relating to the parliamentary ownership, occupation, household, lodger and service franchises;

The Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), which gives the old burgess franchise (Sect. 9);

The County Electors Act, 1888 (51 and 52 Vict., c. 10), which lays down the qualifications for the county electoral franchise (sect. 3 and schedule) read with the L. G. A., 1888 (51 and 52 Vict., c. 41), Sect. 2, subs. (4);

The Registration Act, 1878 (41 and 42 Vict., c. 26), which amended the Representation of the People Act, 1867, in respect of the lodger franchise by allowing two of a number of joint lodgers to be registered, and allowed successive lodgings in the same house to count towards the qualifying period (Sect. 6, subss. 3 and 2), and fixed the date for computation of that period in all cases† as the 15th of July (Sect. 7), and otherwise amended the law with respect to the franchise and registration, parliamentary and municipal;

The Parliamentary Electors Act, 1848 (11 and 12 Vict., c. 90), which fixed the 5th January as the date from which rates due by electors must be paid by the 20th July;

The Registration Act, 1885 (48 Vict., c. 15), which assimilated the law relating to the registration of occupation voters in counties to those in boroughs, altered the dates for notices of claims and objections (Sect. 3), amended the law as to revisions (Sects. 4 and 5), and supplied copious rules, instructions, and forms for all purposes connected with registration;

The Poor Rate Assessment and Collection Act, 1869 (32 and 33 Vict., c. 41), Sect. 19, as explained by Sect. 14 of the Registration Act, 1878, whereby the occupier's franchises are preserved to him notwithstanding the omission of his name from the rate book;

The Redistribution of Seats Act, 1885 (48 and 49 Vict., c. 23), Sect. 10, which provides that in a borough divided into divisions qualification by successive occupation operates in the division where the premises are situate which are occupied at the end of the qualifying year; and

The Electoral Disabilities Removal Act, 1891 (54 and 55 Vict., c. 11), sect. 2 of which enables a person, without losing his qualification to be temporarily absent (for not more than four months at any one time) in the performance of a duty, or to fail to the like extent and under the like circumstances to reside in or within the required distance from the county or borough.

For a brief summary of the law relating to corrupt and illegal practices at elections, see Introduction, p. 27.

<sup>42</sup> As to who are parochial electors, see L. G. A., 1894, Sect. 2, subs. 1, cited in Part 4 of this Appendix, and note 29 thereto, p. 212.

\* "The expression 'parochial elector,' when used with reference to a parish . . . in the county of London . . . means any person who would be a parochial elector of the parish if it were a rural parish."

† Except as to freeholders in counties, which was done by the Registration Act, 1885, Sect. 12.



of the twelve months<sup>43</sup> preceding the election resided in the district.<sup>44</sup>

### *Disqualifications.*

Local Government Act, 1894, sect. 46.<sup>45</sup> (1) A person shall be disqualified for being elected or being a *councillor or mayor or an alderman* of a *metropolitan borough* if he—

(a) is an infant or an alien<sup>46</sup>;

<sup>43</sup> It will be seen that there are two alternative qualifications, either the status of a parochial elector or residence. A non-elect, however, must have resided during the whole twelve months; he is not given the benefit of temporary non-residence given to electors. There have been many decisions on the question as to what constitutes residence. Absence from home will not by any means necessarily be a breach of residence, if there is the continual power and intention of returning home.—*Powell v. Guest*, 34 L. J. C. P., 69 (1864); *Stanford v. Williams*, 15 Times L. R., 316 (1899). And a man may have more than one residence, provided he *bonâ fide* inhabits both.—*Reg. v. Mayor of Exeter (Westcomb's case)*, L. R., 4 Q. B., 110 (1868); *Bond v. Overseers of St. George, Hanover Square*, L. R., 6 C. P., 312 (1870). But the residence must not be a merely colourable one, it must be *bonâ fide* and substantial: *Whithorn v. Thomas*, 14, L. J. C. P., 38 (1844). The question in each case is one of fact. Imprisonment outside the boundaries has been held to break the continuity of the residence—*Powell v. Guest, ubi sup.*; so also, absence for the purpose of filling a situation—*Ford v. Drew*, 5 C. P. D., 59 (1879); *Beal v. Town Clerk of Exeter*, 20 Q. B. D., 300 (1887); and absence on military duty—*Ford v. Barnes*, 16 Q. B. D., 254 (1885), *Spittall v. Brook*, 18, Q. B. D., 426.

<sup>44</sup> The sub-section goes on to say that “no person shall be disqualified by sex or marriage for being elected or being a councillor.” But owing to the express exclusion of women from membership of metropolitan borough councils by Sect. 2, subs. (1), of the present Act (see p. 52), this provision will not apply to the latter.

<sup>45</sup> This Section is expressly applied to the mayor and aldermen of a borough council by Sect. 2, subs. (5), of the present Act (p. 53).

<sup>46</sup> By the L. G. A., 1894, Sect. 75, subs. (2), it is declared that “the expression ‘election’ includes both the nomination and the poll.” Hence the election begins with the nomination, from which it would seem to follow that the date for calculating the arrival at full age or the naturalisation of a candidate is the day of nomination. In other words, an infant or an alien is not qualified to be nominated as a candidate, and consequently his election (if, in fact, nominated) would be invalid even though he came of age or was naturalized between the nomination and the poll. In *Harford v. Linskey*, 1899, 1 Q. B., 852 (a case the decision in which did not turn on this point), Wright J. said (p. 858), “We think it safest to hold that in cases of elections under the Municipal Corporations Acts a person who at the time of nomination is disqualified for election in the manner in which this petitioner was disqualified, is disqualified also for nomination. The nomination is for this purpose an essential part of the election.” In the case in question the disqualification arose from the candidate having a contract with the corporation, notwithstanding that he might have assigned his contract before the election, and had, in fact, taken steps for that purpose. Wright J., however, adds, “It is not necessary to say whether the same conclusion would follow if the disqualification was such as *must necessarily cease* at a time between nomination and poll, as, for instance, if a person were nominated on the last day of his minority for a poll to take place at a future day.” He was deciding a case, however, under



- (b) has within twelve months before his election, or since his election, received union or parochial relief<sup>47</sup> ;
- (c) has within five years before his election, or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
- (d) holds any paid office under the *borough* council ; or
- (e) is concerned in any bargain or contract entered into with the *borough* council ; or participates in the profit of any such bargain or contract or of any work done under the authority of such council.

(2) Provided that a person shall not be disqualified for being elected or being a *councillor or mayor or an alderman* of any such council by reason of being interested—

- (a) In the sale or lease of any lands or in any loan of money to the council, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or
- (b) in any newspaper in which an advertisement relating to the affairs of the council is inserted ; or
- (c) in any contract with the council as a shareholder in any joint stock company ; but he shall not vote at any meeting of the council on any question in which such company are interested, except that in the case of a water company or other company established for the

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the M. C. A., 1882, which contains no such definition of “election” as the above, and the above declaration of the meaning of that term for the purposes of the L. G. A., 1894 (which applies to metropolitan councils) does not appear to have been brought to the notice of the court.

<sup>47</sup> The Medical Relief Disqualification Removal Act, 1885, does not apply to the case of candidates for or members of councils as it does to that of electors (see note 30 (*d*) to this Appendix, p. 212). But vaccination by a public vaccinator is not parochial relief, nor is the admission of a person to and his maintenance in a hospital for infectious diseases provided by the Metropolitan Asylums Board.—Vaccination Act, 1867 (30 and 31 Vict., c. 84), Sect. 26 ; Public Health (London) Act, 1891 (54 and 55 Vict., c. 76), Sect. 80, subs. (4).

carrying on of works of a like public nature, this prohibition may be dispensed with by the *London County Council*.<sup>48</sup>

(4) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.<sup>49</sup>

(6) If a member of a *borough* council is absent from meetings of the council for more than six months consecutively, except in case of illness or for some reason approved by the council,<sup>50</sup> his office shall, on the expiration of those months, become vacant.<sup>51</sup>

(7) Where a member of a *borough* council becomes disqualified for holding office, or vacates his seat for absence, the council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council, and notified in such manner as the council direct, and the office shall thereupon become vacant.

(8) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be

<sup>48</sup> The disqualification by reason of having an interest in a contract extends to a sub-contractor under the person actually holding the contract.—*Nutton v. Wilson*, 22 Q. B. D., 744 (1889). It appears that the disqualification ceases when the contract is completed, even though not yet paid for.—*Manchester Election Petition: Royse v Birley*, L. R., 4 C. P., 296 (1869). Nor will the fact of assigning a contract remove the disqualification, if the assignor still remains liable under it to the council.—*Cox v. Ambrose*, 60 L. J. Q. B., 114.

A medical practitioner receiving a fee under the Public Health (London) Act, 1891, for notification, etc., of infectious diseases is expressly exempted from disqualification by Sect. 57 of that Act.

<sup>49</sup> Assuming that a discharge is granted without such certificate as is mentioned in the sub-section, the provisions of Section 9 of the Bankruptcy Act, 1890 (53 and 54 Vict., c. 71), would apply; that is, the disqualification would cease at the end of five years from the date of the discharge.

<sup>50</sup> It follows from this that he will have a right to be heard, or to have an opportunity of explaining his absence, and this was held by Kekewich J. in *Richardson v. Methley School Board*, 1893, 3 Ch., 510.

<sup>51</sup> It appears settled that the member would be re-eligible at the next ordinary election, but whether he could immediately offer himself as a candidate is doubtful.—See *Reg. v. Turmine*, 4 Q. B. D., 79 (1878).

The statement that the office becomes vacant must be read in conjunction with the next sub-section, as although in the circumstances mentioned the member cannot act as a member, the vacancy is not complete till declared so.—See *Pease v. Lowden*, 1899, 1 Q. B., 386, cited in note 15 to Appendix A., p. 198.

liable on summary conviction to a fine not exceeding twenty pounds.<sup>52</sup>

[Further disqualifications arise under the Corrupt and Illegal Practices Acts :

C. & I. P. Prevention Act, 1883 (46 and 47 Vict., c. 51).—

Sect. 4. Disqualification of candidate found, on election petition, guilty personally of corrupt practice ;  
Sect. 6, subs. (3). Disqualification for office for seven years of person found guilty on indictment of any corrupt practice.

Municipal Elections (C. & I. P.) Act, 1884 (47 and 48 Vict., c. 70). Sect. 2. Disqualification for corrupt practices at municipal elections, viz., treating, undue influence, bribery and personation ;

Sect. 3, subs. (1). Candidate reported, on election petition, personally guilty of corrupt practice at a municipal election for a borough or ward, to be for ever incapable of sitting for that borough.

*ib.*—Subs. (2). Disqualification of candidate for three years in a borough who has been reported guilty by his agents of any corrupt practice at a municipal election for the borough or a ward thereof.

*ib.*—Sect. 8. Candidate reported, on election petition, guilty by himself or agents of an illegal practice<sup>53</sup> at a municipal election for a borough or ward, disqualified from sitting in that borough during the period for which he was elected to serve, or for which if elected he might have served.

*ib.*—Sect. 18. Where it is reported that illegal practices, or illegal payment, employment, or hiring in the interest of a candidate have so extensively prevailed at a municipal election that they may reasonably be supposed to have affected the result, the candidate is disqualified for the same period as under sect. 8.

*ib.*—Sect. 28, subs. (4). The same consequences as above

<sup>52</sup> Sub-section 9. This section shall apply in the case of any authority whose members are elected in accordance with this Act.

<sup>53</sup> An illegal practice is an offence against Part IV. of the M. C. A., 1882 (see Introduction, p. 27). Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice. — Municipal Elections (C. & I. P.) Act, 1884, Sect. 70, subs. (2).



on conviction after summary trial before an election court.

The foregoing provisions are made applicable to metropolitan boroughs by virtue of sect. 48, subs. (3), of the L. G. A., 1894, cited *supra*, p. 202, subject to rules framed by the Local Government Board.

Public Bodies Corrupt Practices Act, 1889 (52 and 53 Vict., c. 69), sect. 2.—Any person, on conviction of having corruptly solicited or received, given or promised any loan, gift, fee, reward, or advantage as an inducement to a member, officer, or servant of a public body to do or forbear from anything in respect of any matter or transaction in which the public body is concerned, may be disqualified for seven years from holding any public office; and on a second conviction may be disqualified for ever.]

For a brief summary of the law relating to corrupt and illegal practices at elections, see Introduction, p. 27.

6. FURTHER PROVISIONS RELATING TO MEMBERS OF A METROPOLITAN BOROUGH COUNCIL.

[By virtue of sect. 48, subs. (4), of the L. G. A., 1894, cited *supra*, p. 203, the provisions of the Municipal Corporations Act, 1882, with respect to the acceptance of office, resignation, reeligibility of holders of office, and the filling of casual vacancies will, subject to adaptations, variations, and alterations made by rules framed by the Local Government Board, apply to members of a borough council.]

*Acceptance of Office.*—Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), sect. 34. (1) Every qualified person elected to a corporate office,<sup>54</sup> unless exempt under this section or otherwise by law,<sup>55</sup> either shall

<sup>54</sup> “Corporate office” means the office of mayor, alderman, or councillor.—M. C. A., 1882, Sect. 7, subs. 1.

<sup>55</sup> The exemptions “under this section” are given in subs. (3), *infra*. Other exemptions “by law” are the following:—

Military, naval and marine officers on full or half pay, and officers and others employed and residing in any of Her Majesty’s dockyards, victualling establishments, arsenals, barracks, or other naval or military establishments (M. C. A., 1882, Sect. 253); officers of the Post Office (7 W. IV. and 1 Vict., c. 33, Sect. 12); commissioners and officers of customs (39 and 40 Vict., c. 36, Sect. 9); excise (7 and 8 Geo. IV., c. 53, Sect. 11); and inland revenue (53 and 54 Vict., c. 21, Sect. 8); factory inspectors (41 Vict., c. 16, Sect. 67); persons

accept the office by making and subscribing the declaration required by this Act<sup>56</sup> within five days<sup>57</sup> after notice of election, or shall, in lieu thereof, be liable to pay to the council a fine<sup>58</sup> of such amount not exceeding, in case of an alderman or councillor, fifty pounds, and in case of a mayor one hundred pounds, as the council by bye-law determine.

(2) If there is no bye-law determining fines, the fine, in case of an alderman or councillor, shall be twenty-five pounds, and in the case of a mayor fifty pounds.

(3) The persons exempt under this section<sup>55</sup> are—

(a) Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and

(b) Any person who, being above the age of sixty-five years, or having within five years before the day of his election either served the office or paid the fine for non-acceptance thereof, claims exemption within five days after notice of his election.

(4) A fine payable under this section shall be recoverable summarily.

M. C. A., 1882, sect. 35.—A person elected to a corporate office<sup>54</sup> shall not, until he has made and subscribed before two members of the council, or the town clerk, a declaration as in the Eighth Schedule,<sup>56</sup>

in the army reserve (45 and 46 Vict., c. 48, Sect. 7); registrars of births, deaths, and marriages (7 W. IV. and 1 Vict., c. 22, Sect. 18); registered medical practitioners (21 and 22 Vict., c. 90, Sect. 35); registered dentists (41 and 42 Vict., c. 33, Sect. 30); and dissenting teachers or preachers in certain cases, and Roman Catholic priests. But in none of these instances does exemption imply disqualification.

<sup>56</sup> The declaration is given in Eighth Schedule, Part I., Form A., and as applicable to members of metropolitan councils is as follows :—

#### FORM OF DECLARATION ON ACCEPTANCE OF CORPORATE OFFICE.

I, *A.B.*, having been elected mayor [*or* alderman, *or* councillor] for the borough of \_\_\_\_\_, hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

<sup>57</sup> “*Five days.*” The period as prescribed in the Local Government Board rules at present in force (Vestrymen and Auditors (London) Election Order, 1898, Sched. V.) is one month.

<sup>58</sup> The provision as to a fine does not apply where a person is elected to a corporate office without his consent to his nomination being previously obtained.—L. G. A., 1888, Sect. 75, (16) (c), which is incorporated in the Local Government Board rules, which also prescribed a fine of £20 instead of £25 for a vestryman, in the absence of a bye-law.

act in the office<sup>59</sup> except in administering that declaration.<sup>60</sup>

*Resignation.*—M. C. A., 1882, sect. 36.—(1) A person elected to a corporate office<sup>54</sup> may at any time by writing signed by him and delivered to the town clerk, resign the office<sup>61</sup> on payment of the fine provided for non-acceptance thereof.

(2) In any such case the council shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the council, and countersigned by the clerk, and fixed on the town hall,<sup>62</sup> and the office shall thereupon become vacant.

(3) No person enabled by law to make an affirmation instead of taking an oath shall be liable to any fine for non-acceptance of office by reason of his refusal on conscientious grounds to take any oath or make any declaration required by this Act or to take on himself the duties of the office.

*Re-eligibility.*—M. C. A., 1882, sect. 37. A person ceasing to hold a corporate office<sup>54</sup> shall, unless disqualified to hold the office, be re-eligible.

*Acts valid notwithstanding disqualification.*—M. C. A., 1882, sect. 42. (1) The acts and proceedings of a person in possession of a corporate office,<sup>54</sup> and acting therein, shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

(2) The election of a person to a corporate office<sup>54</sup> shall not be liable to be questioned by reason of a

<sup>59</sup> The penalty for so acting is provided in Sect. 46, subs. (8), of the L. G. A., 1894, cited *supra*, p. 220.

<sup>60</sup> Power to receive the declaration accepting office is given by Sect. 239, cited *infra*, p. 226.

<sup>61</sup> A person who becomes disqualified by bankruptcy, absence, or otherwise has thereby vacated his office, and cannot resign it.—*Hardwick v. Brown*, L. R. 8, C. P. 406 [1873]. Resignation, once completed by the delivery of the notice, is irrevocable.—*Reg. v. Mayor of Wigan*, L. R. 14, Q. B. D. 908 [1885]. But the vacancy does not become complete till declared by the council under the next sub-section. See note 51 *supra*, p. 220.

<sup>62</sup> This is explained by Sect. 232 of the M. C. A., 1882, which provides that “any notice or other document required by this Act to be fixed on the town hall shall be fixed in some conspicuous place on or near the outer door of the town hall, or, if there is no town hall, in some conspicuous place in the borough or ward to which the notice or document relates.”



defect in the title, or want of title, of the person before whom the election was had, if that person was then in actual possession of, or acting in, the office giving the right to preside at the election.

*ib.*—Sect. 102. Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

*Casual Vacancies.*—M. C. A., 1882, sect. 40. (1) On a casual vacancy in a corporate office,<sup>54</sup> an election shall be held by the same persons and in the same manner as an election to fill an ordinary vacancy; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2) In case of more than one casual vacancy in the office of councillor being filled at the same election, the councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the council.

(3) Non-acceptance of office by a person elected creates a casual vacancy.

*ib.*—Sect. 66. (1) On a casual vacancy in a corporate office,<sup>54</sup> the election shall be held within fourteen days<sup>63</sup> after notice in writing of the vacancy has been given to the mayor or town clerk by two *parochial electors of the borough*.

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<sup>63</sup> Under the Local Government Rules one month is allowed instead of fourteen days for holding a new election for a London vestryman to fill a casual vacancy.

(2) Where the office vacant is that of mayor, the notice of the meeting for the election shall be signed by the town clerk.

(3) In other cases the day of election shall be fixed by the mayor.<sup>64</sup>

*ib.*—Sect. 103. Where on an election petition the election of any person to a corporate office<sup>54</sup> has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy.

Metropolis Management Amendment Act, 1862 (25 and 26 Vict., c. 102), sect. 39.—If any person be returned to serve in any *metropolitan borough council* for more than one ward, he shall on or before the next meeting of the *council* after such election signify in writing to the town clerk his decision as to the ward which he may desire to represent on such return; and if before or at such meeting he shall refuse or neglect to do so, the *council* shall determine the ward which he shall represent; and the vacancy occasioned by such determination or decision shall be filled up by an election to be held for that purpose within one month from the date of such determination or decision, such elections to be conducted in the like manner as the *ordinary* elections of *borough councillors*.<sup>65</sup>

*Power to administer declaration or oath on acceptance of office.*—M. C. A., 1882, sect. 239. (1) Where by or under this Act a declaration or oath<sup>66</sup> is required to be made or taken by the holder of a corporate office,<sup>54</sup> or other person before the Council or any members thereof, or any other persons, they shall have authority

<sup>64</sup> But under the proviso to Sect. 48, subs. (4), of the L. G. A., 1894, cited *supra*, p. 204, no election will be held to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs.

<sup>65</sup> The corresponding provision in case of a councillor being elected in a municipal borough for more than one ward is contained in Sect. 68 of the M. C. A., 1882.

<sup>66</sup> By virtue of the County Councils (Elections) Act, 1891 (54 and 55 Vict., c. 68), Sect. 5, which is applied by Sect. 2, subs. (4), of the present Act, the mayor or an alderman of a metropolitan borough may make the declaration before any justice or before a commissioner for oaths.

to receive and administer the same without any commission or authority other than this Act.

(2) Nothing in this Act in any case shall require or authorise the taking or making of any oath or declaration that would not have been required or authorised under the Promissory Oaths Act, 1868, or otherwise by law, if this Act had not been passed, or interfere with the operation of the Promissory Oaths Act, 1868 (31 and 32 Vict., c. 72).<sup>67</sup>

*Term of Office of Councillors.*—Metropolis Management Act, 1855 (18 and 19 Vict., c. 120), Sect. 9. One-third of the *borough councillors* first elected under this Act in any *metropolitan borough*, or, where such *borough* is divided into wards, under this Act in each ward of such *borough*, shall go out of office *on the ordinary day of election of borough councillors*,<sup>68</sup> in the year one thousand nine hundred and one; one other third of them on such ordinary day of election in the year one thousand nine hundred and two and the remaining third on such ordinary day of election in the year one thousand nine hundred and three<sup>69</sup> . . . and all *councillors* from time to time elected after the first election shall go out of office *on the ordinary day of election of borough councillors*<sup>68</sup> in the third following year, except such *councillors* as are elected to supply vacancies occasioned otherwise than by effluxion of time<sup>70</sup>; and such last-mentioned *councillors* shall go out of office at the respective times when the terms of office of the *councillors* in whose places they are respectively elected would have expired by effluxion of time.<sup>71</sup>

<sup>67</sup> The Promissory Oaths Act, 1868, contains forms of oath to be taken on certain occasions, including those required from a justice of the peace (see note 2 to Appendix A., p. 195); and provides for substitution of declarations for oaths, and also that no oath or affirmation need be taken more than once.

<sup>68</sup> Namely, on the 1st November.—See the present Act, Sect. 3, subs. (2), p. 56.

<sup>69</sup> The section goes on to provide the manner in which the selection of those who are to retire in the first and second years is to be made; but under the present Act the selection will be determined in the manner provided by the L. G. A., 1894, Sect. 79, subs. (6) and (7), next cited. This is described in note (c) to Sect. 27, p. 129.

<sup>70</sup> That is casual vacancies; as to which see this Appendix *supra*, p. 225.

<sup>71</sup> This provision applies also to the mayor and to the aldermen when elected to fill casual vacancies, as provided by the M. C. A., 1882, Sect. 40, subs. (1), cited *supra*, p. 225.

The above section of the Metropolis Management Act must be taken in conjunction with Sect. 2, subs. (8), of the present Act, p. 53, whereby arrangements are made for a general triennial election of councillors.



Local Government Act, 1894 (56 and 57 Vict., c. 73), Sect. 79, subs. 6.—Of the first *metropolitan borough councillors* elected under this Act,<sup>71</sup> the third who are respectively to retire on the *ordinary day of election of borough councillors*<sup>68</sup> in the years one thousand *nine hundred and one* and one thousand *nine hundred and two*, shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.<sup>69</sup>

*Ib.*—Sub. 7. In the case of a *metropolitan borough* divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.<sup>72</sup>

*Mayor and Aldermen to continue members of council.*—Municipal Corporations Act, 1882, Sect. 38. The mayor and aldermen shall, during their respective offices, continue to be members of the council, notwithstanding anything in this Act as to councillors going out of office at the end of three years.

*Mayor or Aldermen: election not held, or void.*—Municipal Corporations Act, 1882, Sect. 70. If an election of *mayor or alderman of a metropolitan borough*<sup>73</sup> is not held on the *ordinary day of election of mayor and aldermen*,<sup>74</sup> or within the appointed time,<sup>75</sup> it may be held on the day next after that day, or the expiration of that time.

(2) If *such* election is not held on *such ordinary day of election*, or within the appointed time, or on the day next after that day, or the expiration of that time, or becomes

<sup>72</sup> Subss. (6) and (7) of Sect. 79 of the L. G. A., 1894, are expressly applied to London vestries by subs. (10) of the same section; they apply, therefore, to the new borough councils by virtue of Sect. 2, subs. (5), of the present Act, p. 53.

<sup>73</sup> Sect. 70 of the M. C. A. refers to municipal elections generally. Its provisions are applied to county councils by Sect. 75 of the L. G. A., 1888, and consequently they apply apparently to the mayor and aldermen of a borough council by virtue of Sect. 2, subs. (4), of the present Act (see p. 52). But they do not appear to be applied to the councillors of a metropolitan borough, and consequently it would seem that these provisions do not obtain as regards councillors. Compare Sect. 31, subs. (1), of the present Act, p. 136.

<sup>74</sup> That is, on the 9th November; see the present Act, Sect. 3, subs. (3), p. 57.

<sup>75</sup> This apparently refers to the rules for filling casual vacancies, the appointed time being fourteen days or such other period after notice as may be fixed by the Local Government Board rules (see *supra*, p. 225).

void,<sup>76</sup> the *borough council* shall not thereby be dissolved or be disabled from electing, but the High Court may, on motion, grant a *mandamus* for the election to be held on a day appointed by the court.

(3) Thereupon public notice of the election shall, by such person as the court directs, be fixed on the town hall,<sup>62</sup> and shall be kept so fixed for at least six days before the day appointed for the election ; and in all other respects the election shall be conducted as directed by this Act respecting ordinary elections of *mayor or aldermen*, as the case may be.

*Mayor or Alderman: election valid unless questioned within twelve months.* Municipal Corporations Act, 1882, Sect. 73.—Every election of a *mayor or alderman of a metropolitan borough*<sup>77</sup> not called in question within twelve months after the election, either by election petition or by information in the nature of a *quo warranto*,<sup>78</sup> shall be deemed to have been to all intents a good and valid election.<sup>79</sup>

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<sup>76</sup> This must be taken to refer only to cases where the election becomes invalid by reason of some informality, accident, or neglect. It does not include questions of avoidance of election by reason of corrupt or illegal practices, or of disqualification in the nominee, or of the number of votes given, since by Sect. 87 of the M. C. A., 1882, the only mode of questioning an election on any of these grounds is by an election petition. Compare *Reg. v. Morton*, 1892, 1 Q. B., 39.

<sup>77</sup> See note 73 to this Appendix, p. 228.

<sup>78</sup> Sect. 225, subs. (1), of the M. C. A., 1882, restricts the time within which an application for *quo warranto* can be made to twelve months after the person against whom it is directed became disqualified after election.

<sup>79</sup> Nevertheless it seems that the liability to penalties imposed by virtue of the L. G. A., 1894, Sect. 46, subs. (8) (*supra*, p. 220), for acting when disqualified will not be got rid of by the lapse of twelve months without proceedings taken. *De Souza v. Cobden*, 1891, 1 Q. B., 687.

## APPENDIX C.

## OFFICERS.

I.—*Town Clerk cannot be Borough Treasurer.*—Metropolis Management Act, 1855 (18 and 19 Vict., c. 120), sect. 63. No person holding the office of *borough treasurer*<sup>1</sup> under any *metropolitan borough council*, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of *town clerk*<sup>2</sup>; and neither the person holding the office of *town clerk*, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of *borough treasurer*; and every person offending in any of the cases specified in this provision shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action in any of the superior courts of law.

II.—*Officers not to be concerned in contracts, nor to accept gratuities.* M. M. A., 1855, sect. 64. No officer or servant of any *metropolitan borough council* shall be in any wise concerned or interested in any contract or work made with or executed for such *council*; and if any such officer or servant be so concerned or interested, or under colour of his office or employment exact, take or accept any fee or reward whatsoever, other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under such *council*, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, in any of the superior courts of law: provided that no person being a shareholder of any joint stock company shall be prevented from being employed as an officer or servant by

<sup>1</sup> See the present Act, Sect. 9, subs. (1), p. 86.

<sup>2</sup> See the present Act, Sect. 4, subs. (1), p. 57.



reason of any contract between such company and such *council*, or of any work executed by such company.<sup>3</sup>

III.—*Security to be given by officers, accounts to be delivered by officers, and proceedings in default.*—M. M. A., 1885, sect. 65. Before any officer or servant as aforesaid enters upon any office or employment under this Act, by reason whereof he will or may be entrusted with the custody or control of money, the *borough council* shall require and take from him such security for the faithful execution of such office or employment, and for duly accounting for all monies which may be entrusted to him by reason thereof, as they may think sufficient; and every such officer and servant, as well during his continuance in office or employment as upon his resignation, dismissal, or ceasing to hold his office or employment, shall respectively, when and in such manner as he shall be required by the *council*, make out, and deliver a true and perfect account, in writing, signed by him, of all monies received by him for the purposes of this Act, and stating how, and to whom, and for what purpose such monies have been disposed of, and shall together with such account deliver the vouchers or receipts for all payments made by him, and pay over to the *borough* treasurer, or such person as the *council* may appoint, all monies owing by him; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such monies as

<sup>3</sup> These provisions do not prevent an officer from receiving fees or payments for work outside the ordinary scope of his duties. See *Edwards v. Salmon*, 23 Q. B. D., 531 [1889]. Nor do they prevent a council, apparently, from allowing an officer to earn money elsewhere in his own time, or from taking pupils, &c.

The Public Health Act, 1875 (38 and 39 Vict., c. 55), Sect. 193, contains similar provisions to the above, and the decisions under that section will, in general, apply to cases under the present Act. The liability to penalties was held to have been incurred by an officer of a local authority who let rooms to the authority—*Burgess v. Clark*, 14 Q. B. D., 735 [1884], and by an officer who received from contractors fees in respect of bills of quantities prepared by him—*Wintley v. Barley*, 21 Q. B. D., 154 [1888]; and see *Reg. v. Mayor, &c., of Ramsgate*, 23 Q. B. D., 66 [1889]; and *Reg. v. Vaile*, 23 Q. B. D., 483 [1889].

*Todd v. Robinson*, 14 Q. B. D., 739 [1884], decided that an officer who held shares in a company supplying gas to his local authority was liable to penalties; but this case, as regards metropolitan borough councils would come under the exemption in the proviso in the section cited.

In *Melliss v. Shirley Local Board*, 16 Q. B. D., 446, it was held that a contract entered into between an officer of a local board and the board was, by virtue of Sect. 193 of the Public Health Act, 1875, wholly void.

aforesaid, or if, for the space of five days after being thereunto required, he fail to deliver up to the *council*, or to such person as they may appoint, all books, papers, writings, property, effects, matters and things in his possession or power belonging to the *council*, then and in every such case a justice shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two justices, at a time and place to be specified in the summons; and upon the appearance of the party charged, or upon proof that the summons was personally served upon him, or left at his last known place of abode in England, and if it appear to the last-mentioned justices that he has failed to render any such account, or to produce and deliver up any such voucher or receipts, or any such books, papers, writings, property, effects, matters, or things as aforesaid, and that he still fails or refuses so to do, it shall be lawful for them, by warrant under their hands and seals, to commit the offender to gaol, there to remain, without bail, until he shall have rendered such account, and produced and delivered up all such vouchers, receipts, books, papers, writings, property, effects, matters and things in respect of which the charge was made; and if it appears that the party charged has failed to pay over any such monies as aforesaid, and that he still fails or refuses so to do, it shall be lawful for the last-mentioned justices, by a like warrant, to cause the same to be levied by distress and sale of his goods and chattels, and in default of any sufficient distress to commit him to gaol, there to remain, without bail, for a period not exceeding three months, unless such monies be sooner paid: Provided always, that if the complainant, by deposition on oath, show to the satisfaction of any justice that there is probable cause for believing that the party charged intends to abscond, it shall be lawful for such justice, without previous summons, by warrant under his hand and seal, to cause him to be forthwith apprehended; and in such case the said party shall, within twenty-four hours after apprehension, be brought before the same or some other justice, who may order that he be discharged from custody, if such justice thinks that there is no sufficient ground for detention, or that he be further detained until he be brought before two justices at a time and place to be named in the order, unless bail to the satisfaction of the justice be given for the appearance of the party before such two justices: Provided also, that no such proceeding shall be construed to relieve



or discharge any surety of the offender from any liability whatsoever.<sup>4</sup>

IV.—*Existing officers: tenure and compensation.*

[See *London Government Act*, 1899, sect. 30, subs. (2).]

*Local Government Act*, 1894 (56 and 57 Vict., c. 73), sect. 81, subs. (4). Every such officer<sup>5</sup> shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

*ib.*—Subs. (7). Section one hundred and twenty of the *Local Government Act*, 1888,<sup>6</sup> which relates to compensation to

<sup>4</sup> The position of the surety and the conditions and circumstances which will discharge, or fail to discharge, him from his obligation, depend on the general principles of the law relating to sureties and guarantors. In general, when there is a change in the nature of the matter in respect of which the suretyship is entered into, the surety will be discharged—*Lord Arlington v. Merricke*, 2 Wms. Saund. 403. Thus in *Bartlett v. Att.-General*, Parker, 277, a bond given as a security for a collector of customs was held not to extend to cover defalcations arising from his collecting duty on coals created subsequently to the execution of the bond. But if the master discover that the servant has been guilty of dishonesty in the course of the service, and instead of dismissing the servant, continues him in his employ without the knowledge and consent of the surety express or implied, he cannot afterwards have recourse to the surety to make good any loss which may arise from the dishonesty of the servant during the subsequent service—*Phillips v. Foxall*, L. R. 7 Q. B., 666 [1872]. But it appears that where the employer's conduct has altered the position of the surety by reason of a fraudulent act of a contractor against which the surety has, by the contract of suretyship, guaranteed the employer, the surety will not be discharged—*Mayor, &c., of Kingston-upon-Hull v. Harding* (1892) 2 Q. B., 494. Compare also *Mayor, &c., of Durham v. Fowler*, 22 Q. B. D., 394 [1888]; *Caxton Union v. Dew*, 80 L. T., 325 [1899].

<sup>5</sup> That is to say, the existing officers of authorities whose powers and duties are, under the present Act, transferred to borough councils. Such officers will become officers of those councils under Sect. 30, subs. (1), of the present Act, p. 134.

<sup>6</sup> *Local Government Act*, 1888 (51 & 52 Vict., c. 41), Sect. 120, as applied to metropolitan borough councils. Subs. (1). Every existing officer declared by this Act (*read the present Act*) to be entitled to compensation,\* and every other existing officer, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the borough council, to whom the powers of the authority whose officer he was are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act, or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to

\* The present Act—Sect. 30, sub. (1), p. 134—declares that any officer relinquishing his office by reason of the duties not being analogous, or being an unreasonable addition to those which he is at present required to perform, and any officer whose office is abolished, shall be entitled to compensation.



existing officers, shall apply in the case of existing officers affected

all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and Rules relating to her Majesty's Civil Service, is paid to a person on abolition of office.\*

Subs.(2). Every person who is entitled to compensation, as above-mentioned, shall deliver to the county council a claim under his hand, setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act,† on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declarations Act, 1835,‡ that the same is a true statement according to the best of his knowledge, information, and belief.

Subs. (3). Such statement shall be submitted to the *borough* council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.

Subs. (4). If a claimant is aggrieved by the refusal of the *borough* council to grant any compensation, or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

Subs. (5). Any claimant under this section, if so required by any member of the *borough* council, shall attend at a meeting of the council and answer upon oath,§ which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

Subs. (6). The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or, in the case of appeal, by the Treasury, and shall be a specialty debt|| due to him from the *borough* council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.

Subs. (7). If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other *metropolitan borough* council, or by virtue of this Act or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of that office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.

\* That is to say, not more than two-thirds of the salary and emoluments of the office. Compare Note (c) to Sect. 30 of the present Act, p. 135.

† Read this as meaning the present Act.

‡ 5 & 6 W. IV., c. 62. The form of declaration is—

“I, A.B., do solemnly and sincerely declare that . . . . And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

By Sect. 18 of the Act of 1835, it is declared a misdemeanour to make a declaration which is false or untrue in any material particular.

§ The word “oath” includes an affirmation in the case of persons permitted by law to affirm. Interpretation Act, 1889 (52 and 53 Vict., c. 63), Sect. 3.

|| A “specialty debt” is one created by deed, bond, or statute. It requires no consideration to support it, and can, at common law, only be discharged by payment or by discharge under seal. It works a merger, and operates as an estoppel. In practice judgment could be obtained in an action on such a debt in a specially summary manner,

by this Act. Provided that all expenses incurred by a *metropolitan borough* council in pursuance of this section shall be paid as general expenses of the council.

V.—*Officers Superannuation of.*—*Superannuation (Metropolis) Act, 1866* (29 Vict., c. 31), as applied to *metropolitan borough councils*. Sect. 1. The *council* of any *metropolitan borough* may, at their discretion, grant to any officer in their service who shall become incapable of discharging the duties of his office with efficiency by reason of permanent infirmity of mind or body, or of old age, upon his resigning or ceasing to hold his office, an annual allowance not exceeding in any case two-thirds of his then salary, regard being had to the scale of allowances hereinafter contained, and shall charge such allowance to the fund or funds to which such salary would have been charged if he had continued in his office.

*ib.*—Sect. 2. This allowance shall be payable to or in trust for such officer only, and shall not be assignable for nor chargeable with his debts or other liabilities without the consent in writing of the *council*.

*ib.*—Sect. 3. No officer shall be entitled to such allowance on the ground of old age who shall not have completed the full age of sixty years.

*ib.*—Sect. 4 fixes the scale as follows:—

For service of ten years and under eleven years, an annual allowance of ten-sixtieths of the salary and emoluments of the office, and an addition of one-sixtieth in respect of each additional year up to forty years, when an annual allowance of forty-sixtieths may be granted.

*ib.*—Sect. 5 provides that where professional or other peculiar qualifications are required for the duties of any office, and the person having such qualifications is appointed at an age beyond thirty, the *council* may add a number of years, not exceeding ten, to the period he has actually served, for the purpose of computing his superannuation allowance.

*ib.* Sect. 6. Any *borough council* may grant to any person who is compelled to quit their service by reason of severe bodily injury occasioned, without his own default, in the discharge of his public duty, or from infirmity of mind or body, before the completion of the period which would entitle him to a superannuation allowance, a gratuity not exceeding three months' pay for every two years of service.

*ib.*—Sect. 7. No grant shall be made without one month's

previous notice, to be specially given in writing to every member of the *council*, of the proposal to make such grant, and the time when it shall be brought forward.<sup>7</sup>

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(7) The provisions of the Superannuation (Metropolis) Act, 1866, are extended to officers and servants in the metropolis for the purposes of the Baths and Wash-houses Act by Sect. 12 of the Baths and Wash-houses Act, 1878 (41 Vict., c. 14).



## APPENDIX D.

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### SUMMARY OF THE PRINCIPAL STATUTORY POWERS AND DUTIES TRANSFERRED TO METROPOLI- TAN BOROUGH COUNCILS BY VIRTUE OF SECT. 4 OF THE PRESENT ACT.

#### 1. AS TO DRAINS AND SEWERS.

1. All sewers in a metropolitan borough, except main sewers,<sup>1</sup> are vested in the borough council (Metropolis Management Act, 1855 (18 and 19 Vict., c. 120), sect. 68.

2. It is the duty of every such council, subject to powers vested in the London County Council, to repair and maintain the existing sewers vested in them, including all necessary diversions and alterations; and to cause all banks, wharves, docks or defences abutting on or adjoining any river, stream, canal, pond, or watercourse in such borough to be raised, strengthened, altered, or repaired for effectually draining, or protecting from floods or inundation such borough. And every such council has power to carry any such sewers or works through or under any road, street, place, cellar, or vault. But no new sewer is to be made without the previous approval of the London County Council (*ib.*—sect. 69).<sup>2</sup>

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<sup>1</sup> The main sewers existing at the passing of the Act of 1855 are named in Schedule (D) to that Act. These are, by virtue of Sect. 135 of the Act, vested in the London County Council, who have the like duties with reference to them, and have, by the same section, all proper powers for their maintenance, repair, and alteration, and also for constructing new sewers and works of drainage, and likewise powers of disposing of sewage and refuse therefrom. And Sect. 137 empowers the county council to declare any existing sewers to be main sewers, in which case such sewers will vest in and come under the management of the county council.

<sup>2</sup> And plans of all sewers proposed to be constructed must be first submitted to the county council (M. M. A., 1862, Sect. 45), and the *borough council* must also give three days' notice to the county council before connecting with a main sewer (*ib.*, Sect. 46).

Gully-holes and gratings are to be trapped and sewers to be ventilated (*ib.*—sect. 71).

Sewers are to be kept so as not to be a nuisance or injurious to health, and are to be cleansed (*ib.*—sect. 72).

Certain powers are given to borough councils to compel owners to construct drains into the common sewer, and, on the neglect of the owner, to do the works themselves, and recover the expenses by summary process<sup>3</sup> (*ib.*—sect. 73).

Borough council may order a combined drainage for a group or block of houses (*ib.*—sect. 74).

No house may be built without drains constructed to the satisfaction of the borough council (*ib.*—sect. 75).

Before any building is commenced or drain made, notice must be given to the borough council, and the work and drains must be made in accordance with the order of the council and under its survey and control, and in default the council may do all necessary work, and recover the expenses from the owner.<sup>3</sup> (*ib.*—sect. 76).

A borough council may contract with owners or occupiers to make house drains at the expense of the latter (*ib.*—sect. 79).

Where new sewers are made, the owners must bear the expense (Metropolis Management Act, 1862—25 and 26 Vict., c. 102), sect. 52; and where open sewers are converted, or new sewers substituted for them, the owners are to pay part of the expense (*ib.*—sect. 53).<sup>4</sup>

Borough council may, where necessary, carry works of sewerage beyond the limits of the metropolis. But the consent of the London County Council is necessary. So also is that of the authorities of the parish or place through which the work may pass, but if the latter refuse their consent, their refusal may be over-ruled by order of a Secretary of State (*ib.*—sect. 58).

<sup>3</sup> Or the council may, in the alternative, proceed to recover the penalties provided by Sect. 64 of the M. M. A., 1862.

<sup>4</sup> By Sect. 57 of the same Act an appeal is given to the county council from any order of the borough council in relation to such expenses. Such appeal is subject to Sect. 211 of the M. M. A., 1855, which provides that "Any person who deems himself aggrieved by any order of any *borough council* . . . in relation to any . . . building, sewer, drain . . . may appeal to the *London County Council* against the same; and all such appeals shall stand referred to the *Committee of Appeals of the London County Council*," who are to hear and determine all such appeals, and may make orders as to costs, or award compensation, where they see fit. But the appeal must be lodged within seven days after notice of the order complained against.

Every borough council must cause offensive ponds, ditches, and drains to be cleansed, covered, or filled up; and by notice require the person causing such nuisance or the owner or occupier of the premises whereon the same exists to cleanse, cover, or fill up such pond, ditch, or drain. On failure by such person to comply with the notice, the council may either proceed to recover fines, or themselves do the necessary works and recover the expenses. The council may, however, where they think it reasonable, defray all or any portion of such expenses. And where any such work prejudicially affects any ancient mill, or water rights, the council are to pay compensation, or if they think fit may purchase such mill or such rights. An appeal lies to the county council against any notice or act of a borough council under this section (Public Health (London) Act, 1891, 54 and 55 Vict., c. 76, sect. 43).

*Note.*—In the Metropolis Management Acts, and in the Public Health (London) Act, 1891, are subsidiary and confirmatory provisions to require or enable *borough councils* to carry out the general duties and powers stated in the foregoing sections. Such are, powers to purchase lands, mill-dams, and streams (M. M. A., 1855, sect. 150), to sanction plans and superintend construction of sewers and drains (M. M. A., 1862, sects. 49 and 61); to prevent encroachments or interference with sewers or drains (M. M. A., 1855, sects. 204 and 205; M. M. A., 1862, sects. 68 and 69). There are saving clauses in many Acts of Parliament protecting sewers and drains from interference by the works of public companies having statutory powers for railways, tramways, gas, water, electric lighting and telephone works.

## 2. AS TO LIGHTING, WATERING, &C.

By sect. 90 of the M. M. A., 1855, all the powers and duties relating to the paving, lighting, watering, cleansing, or improving of parishes in the metropolis, previously vested in Commissioners or other bodies, were transferred to the administrative vestries and district boards instituted by that Act; and by virtue of sect. 4 of the present Act, p. 57, are transferred to the metropolitan borough councils.

By sect. 92 of the same Act it was provided that all expenses of paving, lighting, watering, &c., should be deemed expenses incurred in the execution of that Act, and be defrayed accordingly (*i.e.*, out of rate).



By virtue of sect. 130 of the same Act, every *borough council* must cause the streets in their boroughs to be well and sufficiently lighted. And by virtue of sect. 23 of the Metropolis Gas Act, 1860 (23 and 24 Vict., c. 125), the borough council "may provide and keep in repair their own public lamp-posts and lamps, and in case of their electing to burn by meter, light and extinguish the lamps, and defray the expenses thereof." By sect. 22 of the same Act, gas companies are bound to light public lamps under contract.

By sect. 116 of the M. M. A., 1855, every *borough council* has power to cause streets to be watered.

Sect. 51 of the Public Health (London) Act, 1891, vests in the *borough council* all existing public cisterns, reservoirs, wells, fountains, pumps, and works used for the gratuitous supply of water in the *borough*, and not vested in any person or authority; and gives power to the council to maintain and supply the same, or substitute, maintain, and supply other such works equally convenient, or maintain and supply other such works within their borough. They may also provide and maintain public wells, pumps, and drinking fountains.

### 3. AS TO STREETS AND BRIDGES.

By sect. 90 of the M. M. A., 1855, all the powers and duties in relation to paving, &c., previously vested in commissioners or other bodies were transferred to the administrative vestries and district boards, and pass by virtue of sect. 4 of the present Act, to the metropolitan borough councils—see the first paragraph of Part 2 of this Appendix, p. 239.<sup>5</sup>

And under sect. 98 of the same Act every borough council has power to pave and repair streets, and to alter the position of mains or pipes in or under such streets, such alteration, however, to be subject to the approval of the engineer of the company to which such mains or pipes belong.<sup>6</sup>

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<sup>5</sup> The previous jurisdiction was given by the Metropolitan Paving Act, 1817—"Michael Angelo Taylor's Act"—57 Geo. III., c. xxix. The powers thereby conferred include powers of acquiring by agreement or compulsorily any houses, buildings or land required for altering, widening, extending or opening any street or public place, and corresponding duties, including cleansing, prevention of certain nuisances and obstructions, etc., are imposed. The powers in question were expressly and more fully transferred by Sect. 73 of the Metropolis Management Act, 1862.

<sup>6</sup> This does not impose on the borough council the duty of altering or relaying pipes where their own works can be efficiently carried out without

By sects. 72 and 100 of the M. M. A., 1862 (see Appendix E., Part 2 (b), p. 515-6), powers are given of extending, making, improving, &c., streets and bridges.

*As to paving new streets and charging the cost on the owners.*—M. M. A., 1855, sect. 105. This section provides that where the owners of the houses forming the greater part of any new street are desirous of having the same paved, or the *borough council* deem it necessary or expedient that the same be paved, the council shall pave the same and keep it in repair, and charge the owners of the houses in such street with the expense of providing and laying such pavement.

And sect. 77 of the M. M. A., 1862, extends the liability to contribute to the expenses to the owners also of lands bounding or abutting on such street, though the council, if they deem it just and expedient, may charge owners of land in a lower proportion than owners of house property. The council are to apportion the contributions, and may at their discretion accept payment by instalments spread over twenty years.<sup>7</sup>

Under sect. 108 of the M. M. A., 1855, borough councils will have power to place posts, fences and rails on the sides of any foot-ways and carriage-ways in their boroughs for the purposes of safety, and to prevent any carriage or cattle from going on the same, and also to place posts or other erections in any carriage-way so as to make the crossings thereof less dangerous for foot-passengers, and also to repair and renew the same, or

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actual interference with the pipes or mains. Thus, when the Wandsworth District Board proposed to lower the surface of a street without altering the mains of the Southwark and Vauxhall Water Company under the street, but so as to leave only a few inches of soil over them (thus possibly exposing them to injury from traffic or frost), it was held by the Court of Appeal that no duty lay on the board to alter the position of the pipes, where such alteration was not required for the purposes of the board's own works.—*Southwark and Vauxhall Water Co., v. Wandsworth, &c.*, 1898, 2 Ch. 603.

<sup>7</sup> Many cases have been tried in the courts as to the applicability of the provisions of these sections in particular instances. Perhaps the most important contested question has been whether a given thoroughfare or roadway is a new street within the meaning of the Acts so as to render the frontages liable to contribute. In *Vestry of St. Mary, Battersea, v. Palmer* (1897, 1 Q. B., 220), it was held that a road, though it might be a new street within Sect. 112 of the Act of 1862, was not sufficiently built on to satisfy the language of Sect. 105 of the Act of 1855, and that the vestry had acted prematurely in paving it as such, and could not make the frontagers contribute. In *Allen v. Fulham Vestry* (1899, 1 Q. B., 681), though a road had existed since 1877, no houses were built till 1890, and then on one side only; but in 1896, when houses were erected on the other side, the vestry declared the road to be a new street, and made paving demands accordingly. It was held that the road first became a new street on the erection of houses therein, and that the vestry could rightly apportion the expense among the owners.



remove them or any other obstruction or encroachment on any carriageway or footway.

Sect. 98 of the M. M. A., 1862, lays down a minimum width of 40 feet for streets thereafter formed for carriage traffic, and of 20 feet for foot traffic, and requires such streets to be open at both ends; but sect. 99 gives power to the *London County Council* to make exemptions under special circumstances.

*Tramways.*—Borough councils will be the road authority within the meaning of the Tramways Act, 1870 (33 and 34 Vict., c. 78). They may, therefore, require tramway companies to repair the road between the rails and 18 inches each side thereof.—Tramways Act, 1870, sect. 28.

By sect. 101 of the M. M. A., 1855, no vault, arch, or cellar may be made under any street without the consent of the *borough council*.

*Street Naming.*—By sect. 87 of the M. M. A., 1862, *borough councils* must affix names to streets, and require owners to affix numbers to houses.<sup>8</sup>

#### 4. AS TO BUILDINGS.

##### (1) *Licensing Wooden Structures, and taking Proceedings.*

[*See London Government Act, 1899, Schedule II., Part I.*]

London Building Act, 1894 (57 and 58 Vict., c. ccxiii), sect. 84.—(1) No person shall set up in any place any wooden structure (unless it be exempt from the operation of this Part<sup>9</sup> of this Act), except hoardings enclosing vacant land,<sup>10</sup> and not

<sup>8</sup> The London County Council sanctions the naming, and has power to alter the naming and numbering (*ib.*); and has power, under the London Building Act, 1894 (57 and 58 Vict., c. ccxiii., Sect. 37), to do the work on default.

<sup>9</sup> The exemptions referred to are given in the next two sections, and in Sects. 201 to 206, 210 and 212.

<sup>10</sup> The vestries and district boards, being local authorities under the London Building Act, 1894, their status as such will pass to the borough councils, who will have, besides their power as to hoardings under the Metropolis Management Act, 1855, Sects. 121 and 122, the jurisdiction given by Sect. 32 of the London County Council (General Powers) Act, 1890 (53 and 54 Vict., c., ccxliii.): “Every person who shall intend to build or take down any house, building, or wall (not being within the City of London) within ten feet of any public thoroughfare” shall give notice to the *borough council*, and shall before commencing, put up a hoarding or fence and a platform with a handrail for foot passengers to the satisfaction of the *borough council*, and if required, light the same. Non-compliance with this enactment renders the offender liable to a maximum penalty of £5, and a continuing penalty of forty shillings a day, recoverable by summary process.



exceeding in any part twelve feet in height, without having first obtained for that purpose a licence from the Council,<sup>11</sup> and the licence may contain such conditions with respect to the structure and the time for which it is to be permitted to continue in the said place as the Council think expedient.<sup>12</sup>

(2) Provided that a licence shall not be required in the case of any wooden structure of a movable or temporary character erected by a builder for his use during the construction, alteration, or repair of any building, unless the same is not taken down or removed immediately after such construction, alteration, or repair.

Provided that this section shall not extend to or apply within the City or to any hoarding duly licensed by the local authority under any statutory powers in that behalf.<sup>10</sup>

(2) *Removal of Unauthorised Sky-signs.*

[See *London Government Act, 1899, Schedule II., Part I.*]

London Building Act, 1894, sect. 134.—If any sky-sign<sup>13</sup> be erected or retained contrary to the provisions of this Act, it shall be lawful for the council<sup>11</sup> to take proceedings for the taking down and removal of the sky-sign in the same manner in all respects as if it were a structure certified to be in a dangerous state under Part IX. of this Act<sup>14</sup> . . .

<sup>11</sup> This now means, of course, the borough council.

<sup>12</sup> By Sect. 200 (3) (e) of the same Act a maximum daily penalty of £20 is imposed for breach of the above enactment, and further penalties, and provisions for demolition and other orders are made in the like case by the London Building Amendment Act, 1898 (61 and 62 Vict., c. cxxxvii.), Sect. 7. The Act of 1894 provides also for proceedings being taken by the district surveyor—Sects. 150, 151. These provisions are of a general character, with the object of preventing or remedying any irregularities, whether of commission or omission, and they, of course, are applicable to offences against the above section.

<sup>13</sup> The definition of “sky sign” is given at considerable length in Sect. 125 of the same Act. Essentially it is a sign or advertisement supported on or attached to a pole, framework, &c., over a building, and visible against the sky. It includes a balloon, parachute, &c.

<sup>14</sup> The effect of this provision is that the borough council are to serve notice on the occupier or owner requiring him to remove the sky sign. Should he fail to comply with the notice, the council are to make complaint to a petty sessional court who may by order limit a time for him to remove the sky sign. And should he neglect to obey the order the council may enter on the land or premises and remove the sky sign, and may recover their expenses by summary process.

(3) *Removal of Obstructions in Streets.*

[*See London Government Act, 1899, Schedule II., Part I.*]

London Building Act, 1894, sect. 199.—No person not being lawfully authorised shall erect or place, or cause to be erected or placed, any post, rail, fence, bar, obstruction, or encroachment whatsoever in, upon, over, or under any street, and no person not being lawfully authorised shall alter or interfere with any street in such manner as to impede or hinder the traffic for which such street was formed or laid out from passing over the same.

The council<sup>11</sup> may, at the expiration of two days after giving notice in writing to the person to demolish or remove any such post, rail, fence, bar, obstruction, or encroachment, or to reinstate or restore such street to its former condition (as the case may be), demolish or remove any such post, rail, fence, bar, obstruction, or encroachment, and reinstate or restore such street to its former condition and recover the expenses thereof from such person in a summary manner.

(4) *Demolition of Buildings.*

[*See London Government Act, 1899, Schedule II., Part II.*]

London Building Act, 1894, sect. 170.—Where any person has been convicted of an offence against any of the provisions of any Part of this Act or any byelaw made thereunder, by constructing, erecting, adapting, extending, raising, altering, uniting, or separating any building or structure, or any part of any building or structure, in contravention of any provisions of any Part of this Act, it shall be lawful for the Council,<sup>15</sup> after giving fourteen days' notice to such person to bring such building or structure into conformity with the said provisions, and after default shall have been made in complying with such notice, and notwithstanding the imposition and recovery of any penalty, to cause complaint thereof to be made before a petty sessional court, who may thereupon issue a summons requiring the person making such default as aforesaid to appear to answer such complaint, and if the said complaint is proved to the satisfaction of the court, the court may make an order in writing authorising the Council, and it shall thereupon be lawful for the Council to

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<sup>15</sup> "Council" here means the London County Council, or the borough council of any borough when the latter have obtained the conviction.

enter upon such building or structure with a sufficient number of workmen and to demolish or alter such building or structure, or any part thereof, so far as the same shall have been adjudged to be in contravention of this Act or any bye-law under this Act, and to do whatever other acts may be necessary for such purpose, and to remove the materials to some convenient place, and, if in their discretion they think fit, sell the same in such manner as they may think fit, and all expenses incurred by the council in demolishing or altering such building or structure or any part thereof, and in doing such other acts as aforesaid, or the balance of such expenses after deducting the proceeds of sale of the aforesaid materials (if the council thinks fit to sell the same), may be recovered from the person committing the offence aforesaid in a summary manner.

If the proceeds of such sale shall be more than sufficient to defray such expenses, the council shall restore the surplus of such proceeds, after deducting the amount of all such expenses, to the owner of the building or structure on demand.

(5) *Piling, Stocking, and Storing of Timber.*

[*See London Government Act, 1899, Schedule II., Part II.*]

London Building Act, 1894, sect. 197.

(1) It shall not be lawful for any person to erect or place a pile, stack, or store of cut or uncut timber, lathwood, firewood, casks or barrels, whether on or above the ground, nearer to a street than the buildings forming the general line of buildings therein except in a position wherein such a pile, stack, or store stood on the first day of January, 1894.

(2) It shall not be lawful for any person to pile, stack, or store cut or uncut timber, lathwood, firewood, casks or barrels in the same yard or ground or in any part of the same premises with any furnace, except in the following cases:—

(a) Where the furnace is enclosed in a building or chamber constructed of fire-resisting materials; or

(b) where there is a distance of not less than ten feet between the furnace and the pile, stack, or store of timber, lathwood, firewood, casks or barrels.

(3) No pile, stack, or store of timber, lathwood, firewood, casks or barrels shall exceed sixty feet in height from the level of the ground.



(4) It shall not be lawful to form in any pile, stack, or store of timber, lathwood, firewood, casks or barrels any room, or chamber, or space (other than a passage) to be used for any purpose whatever.

(5) Timber-yards existing at the time of the passing of this Act shall comply with these provisions within two years from the date of the passing of the Act, but the Council<sup>16</sup> shall have power in individual cases, if they think fit, to prolong this time for a term not exceeding seven years, and shall have power to relax any of the provisions of this section.

(6) This section shall not apply to railway companies or canal companies, so far as regards timber, lathwood, firewood, casks or barrels in transit, or piled, stacked, or stored on land occupied by them for the purpose of their undertakings, nor to timber, lathwood, firewood, casks or barrels piled, stacked, or stored in or on any yard or other premises occupied by any dock company for the purposes of their undertaking, or to any such yard or premises, or to any person piling or stacking or storing timber, lathwood, firewood, casks or barrels in or on any such yard or premises.

London Building Act, 1894, sect. 200 (11) (*h*).—[Any person who] acts in any manner in contravention of any of the provisions of this Act relating to the storing of wood and timber . . . shall be liable to a penalty not exceeding forty shillings, and to a daily penalty not exceeding the like amount.

## 5. AS TO OPEN SPACES.

A borough council may take land and preserve it as an open space (Metropolis Management Act, 1856, 19 and 20 Vict., c. 112, sect. 11), and may take for nominal or valuable consideration either by purchase or as tenants, or may undertake the management of, any open space, churchyard, or burial-ground in their borough—Metropolitan Open Spaces Act, 1881 (44 and 45 Vict., c. 34), sect. 5. For the like purposes they may enter into agreements with the London County Council or with neighbouring borough councils (*ib.*—sects. 7, 8). They may make byelaws (*ib.*—sect. 6).

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<sup>16</sup> The term "Council" here means, apparently, the London County Council only; as by Sched. II., Part II., of the present Act only the power of taking proceedings under the above section is conferred (locally) on borough councils.

## 6. AS TO SANITATION (APART FROM DRAINAGE).

Public Health (London) Act, 1891 (54 and 55 Vict., c. 76), *passim*.

1. By sect. 99 the *borough council* will be the “sanitary authority” for the execution of the Act.

2. *Information of Nuisances*.—The *borough council* must make regulations and give directions to their officers. Sect. 3.

3. Must, on receipt of information, give notice to offender or to owner or occupier, requiring him to abate the nuisance. Sect. 4; and

4. On his default, apply for a nuisance order. Sect. 5.

5. They have a right to enter any premises to examine as to the existence of a nuisance, or for the purpose of executing a nuisance order. Sect. 10.

6. They may proceed against a person outside their borough in respect of a nuisance caused by him in their borough. Sect. 14.

7. They must make bye-laws for—

(a) preventing nuisances from snow, ashes, offal fish, filth, &c., in any street;

(b) preventing nuisances from offensive matter running out of any manufactory, brewery, slaughter-house, knackers’ yard, butcher’s or fishmonger’s shop, or dunghill, into any uncovered place;

(c) preventing animals being kept on any premises so as to be a nuisance or injurious to health;

(d) as to the paving of yards and open spaces in connexion with dwelling-houses.

They must observe and enforce the bye-laws so made, and also those which the London County Council are required to make as to the removal of offensive matter and of refuse, and the closing and filling up of cesspools and privies. Sect. 16.

8. They may enter any slaughter-house or knackers’ yard to examine as to any contravention.<sup>17</sup> Sect. 20, subs. (7).

9. When any premises used for trade or manufacture causing effluvia are certified to the council by their medical officer or by any two qualified medical practitioners or by any ten inhabitants of the borough to be a nuisance or dangerous or injurious

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<sup>17</sup> Except in the Metropolitan Cattle Market, subs. (8).

to health, the council must complain to a petty sessional court. Or they may take proceedings in the High Court. Sect. 21.

10. The borough council must enforce the provisions of sect. 23, which require furnaces and steam vessels to consume their own smoke.

11. They must, on the certificate of a medical officer of health or sanitary inspector, serve notice on the owner or occupier of a workshop (other than a bakehouse) to limewash, cleanse or purify the workshop or such part thereof as is mentioned in the certificate; and on default may do the work and recover their expenses from the defaulter, who is also liable to fines. Sect. 25.

12. *Bakehouses* are dealt with by sects. 34 and 35 of the Factory and Workshop Act, 1878 (41 Vict., c. 16), which require all walls and ceilings of the rooms of such bakehouses to be painted, varnished, or limewashed, and contain sanitary provisions as to sleeping places in the same building as a bakehouse. Further sanitary provisions as to bakehouses are contained in sects. 15 and 16 of the Factory and Workshop Act, 1883 (46 and 47 Vict., c. 53). And the Public Health (London) Act, 1891, imposes upon the *borough council* the duty of enforcing the above provisions, and constitutes that *council* the local authority within the meaning of those sections. They have also powers of entry. Sect. 26.

13. The borough council must keep their streets properly swept and cleansed, and collect and remove all street refuse. Sect. 29.

14. They must remove house refuse, and clean out and empty ashpits, earth-closets, privies, &c. Sect. 30.

15. Where any house is without a proper ashpit and proper water-closets, they must give notice to the owner or occupier to provide the same; and on his default, they may do the work and recover the expenses from the owner. Or alternatively they may proceed for a fine. The owner has an appeal to the county council. Sect. 37.

16. They may by notice require the owner or occupier of any factory or workshop to provide suitable sanitary conveniences, subject to a fine for non-compliance. Sect. 38.

17. They must make bye-laws for the sufficient supply of water-closets with water. And they must observe and enforce such bye-laws, as well as those which the county council are



required to make as to closets, privies, ashpits, cesspools, &c. Sect. 39.

18. They have power of entry to examine closets, privies, ashpits, &c., or to ascertain the course of a drain. Sect. 40.

19. They have to certify that any new or rebuilt house has a proper water supply before it is occupied as a dwelling-house. Sect. 48.

20. They must make bye-laws for the cleansing of tanks and cisterns. Sect. 50.

21. They may complain to a petty sessional court of the water of any well, tank, or cistern, public or private, or supplied from any public pump being polluted, and the court may order the well, tank, &c., to be closed, or may make such other order as may be requisite. Sect. 54.

22. They must make and enforce bye-laws as to lodging-houses (other than common lodging-houses within the Common Lodging Houses Acts)<sup>18</sup> with regard to the number of occupiers, registration, inspection, drainage, ventilation, cleansing, and taking precautions in case of infectious disease. Sect. 94.

23. They may make bye-laws for promoting cleanliness in, and the habitable condition of tents, vans, sheds, &c.

24. They must appoint one or more medical officers of health—sect. 106—and an adequate number of sanitary inspectors—sect. 107.<sup>19</sup>

## 7. VARIOUS POWERS AND DUTIES.

1. *Tramways*.—The *borough council* will be the road authority within the Tramways Act, 1870 (33 and 34 Vict., c. 78), sect. 3; and they may object to tramways being laid in their borough. And their consent is necessary where power is sought to break up any road. Sect. 4.

2. *Gas*.—The *borough council* may appoint gas examiners, and provide testing apparatus.—Metropolis Gas Act, 1860 (23 and 24 Vict., c. 125), sects. 27, 28.

3. *Electric Lighting*.—The *borough council* may apply for a license or a provisional order from the Board of Trade to supply

<sup>18</sup> Namely, 14 and 15 Vict., c. 28, and 16 and 17 Vict., c. 41.

<sup>19</sup> As to powers of providing hospitals, ambulances, mortuaries, etc., and as to borrowing powers for these purposes and for those of the epidemic regulations, &c., see Appendix E., p. 266.

electricity for any public or private purposes within their borough (Electric Lighting Act, 1882—45 and 46 Vict., c. 56), sects. 3, 4.

They may, after obtaining powers of supply, contract with any company or person for the execution and maintenance of the works, but they must not transfer the powers given or liabilities imposed on them.—*ib.*, sect. 11.

They may purchase an undertaking.—*ib.*, sect. 27, and Electric Lighting Act, 1888 (51 and 52 Vict., c. 12), sects. 2, 3.

Their consent is requisite for a provisional order being granted to other undertakers. Electric Lighting Act, 1888, sect. 1.<sup>20</sup>

4. *Overhead Wires.*—The *borough council* will be the “local authority” for the purposes of the London Overhead Wires Act, 1891 (54 and 55 Vict., c. lxxvii.)

They must enforce and administer the bye-laws under that Act which the London County Council are empowered to make.—Sect. 6.

They may appoint inspectors and other officers—sect. 8. Where it appears on the report of an inspector that any wire is dangerous, they may serve notice on the company placing the wire requiring them to remove, renew, or alter the same, and on default may apply to a court of summary jurisdiction for a summons to such company to show cause, and the court may make an order authorising the *borough council* to do the work and charge the expense to the company to whom the wire belongs.

5. *Alkali, &c., Works.*—The *borough councils* will be “sanitary authorities” for the purposes of the Alkali, &c., Works Regulation Acts, 1881 (44 and 45 Vict., c. 37) and 1892 (55 and 56 Vict., c. 30), and have power to make complaint to the Local Government Board in case of contravention of the provisions of those Acts.

6. *Barbed Wires.*—Under the Barbed Wire Act, 1893 (56 and 57 Vict., c. 32), the *borough councils* are empowered to take legal proceedings to remove barbed wires from the neighbourhood of highways in their *boroughs*.

7. *Buildings.*—The *borough councils* will be “local authorities” under the London Building Act, 1894 (57 and 58 Vict., c. ccxiii.).

8. *Thames Floods.*—By the Metropolis Management (Thames

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<sup>20</sup> The Board of Trade, however, have a dispensing power, *ib.*

River Prevention of Floods) Amendment Act, 1879 (42 and 43 Vict., c. cxviii.), *borough councils* are liable to provide for the execution of all flood works which may from time to time, in the opinion of the London County Council, be necessary for the protection of premises from flood or inundation (Sect. 1), and to maintain such works (Sect. 22).

Power to execute works is given by Sects. 14 and 16; and in default the county council may themselves do the work (Sect. 13). Power to inspect is given by Sect. 18. And borrowing powers are given by Sect. 30. Further provisions are contained in the Metropolitan Board of Works (Various Powers) Act, 1882 (45 Vict., c. 56), Sects. 46 to 49.

9. *Canal Boats*.—The *borough councils* will be “sanitary authorities” for carrying out the provisions and regulations of the Canal Boats Acts, 1877 (40 and 41 Vict., c. 60), and 1884 (47 and 48 Vict., c. 75).

10. *Food and Drugs*.—The *borough councils* have power to appoint public analysts.

They may take and analyse samples and proceed against offenders. Sale of Food and Drugs Acts, 1875 (38 and 39 Vict., c. 63), 1879 (42 and 43 Vict., c. 30), and 1899 (62 and 63 Vict., c. 51); Margarine Act, 1887 (50 and 51 Vict., c. 29); Sale of Horseflesh, etc., Regulation Act, 1889 (52 and 53 Vict., c. 11).

11. *Water Supply*.—A *borough council* will be a “local authority” within the meaning of the Metropolis Water Act, 1897 (60 and 61 Vict., c. 56).

They may make complaint to the Railway and Canal Commissioners where a water company has failed to perform some statutory duty.

They may aid any water consumer in obtaining the determination of any question of interest in their borough as to quantity and quality of water.

The present Act, Schedule II., Part II., p. 151, expressly gives to borough councils powers under sects. 17 to 25 of the Metropolis Water Act, 1871 (34 and 35 Vict., c. 113), which are as follow:—

Sect. 17. Every company shall, within six months after the passing of this Act, make regulations for the purposes for which regulations may be made under the authority of section 26 of the Metropolis Water Act,



1852,<sup>21</sup> and the provisions of that section shall apply also to the preventing of undue consumption or contamination of water.

Sect. 18. Any company, if it thinks fit, or if requested so to do by the *Local Government Board*,<sup>22</sup> may repeal or alter any of the regulations made for the purposes aforesaid, or make new regulations instead of any of the same.

Sect. 19. In case any company does not make regulations within the time specified in this Act, or in case any company, on being requested in writing by the metropolitan authority,<sup>23</sup> or by any ten consumers of the water supplied by that company, to repeal or alter any of the regulations for the time being in force, or to make new regulations instead of any of the same, refuses so to do, the *Local Government Board* may, if they think fit, appoint a competent and impartial person of engineering knowledge and experience to report to them as to such regulations as may be necessary for the execution of this Act, or as to the expediency of altering or repealing such regulations, or of making new regulations, in conformity with such request as aforesaid, and on the report of such person the *Local Government Board* may make such regulations, repeal, or alterations as they think fit.

Sect. 20. By any regulations made under the authority of the Metropolis Water Act, 1852, or of this Act, penalties may be imposed for offences against the same not exceeding in respect of any offence the sum of five pounds, so that every such regulation be so framed as to allow part only of the maximum penalty

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<sup>21</sup> 15 and 16 Vict., c. 84. Sect. 26 empowers any water company, with the approval of the *Local Government Board* (see note \* at p. 66), to make regulations for preventing the waste or misuse of water, and therein, amongst other things, to prescribe the size, nature, and strength of the pipes, cocks, cisterns, and other apparatus to be used, and to interdict any arrangements, and the use of any pipes, cocks, cisterns, or other apparatus, which may tend to such waste or misuse.

<sup>22</sup> See note \* at p. 66.

<sup>23</sup> The expression "metropolitan authority" is defined by Sect. 3 and Sched. A. to the same Act as meaning, in the metropolis outside the City, the Metropolitan Board of Works, that is, at present, the London County Council. The effect of the extension of these powers to the borough councils will, of course, involve a corresponding extension in the meaning of the expression in question.

being inflicted, and any such penalty shall be recoverable as penalties under this Act are recoverable.<sup>24</sup>

Sect. 21. Within four days after the making of any regulation, or of any repeal of or alteration in any regulation, notice of the same shall be served upon the metropolitan authority by the company or person making the same.

Sect. 22. No regulation, and no repeal or alteration of any regulation, made under the authority of the Metropolis Water Act, 1852, or of this Act, by a company, shall be of any force or effect unless and until the same be submitted to and confirmed by the *Local Government Board*, who may institute such inquiry in relation thereto as they shall think fit, and who at such inquiry shall hear the metropolitan authority, and the company, if desiring to be heard, and the said Board shall, if they think fit, or if requested, nominate and have present at such inquiry to advise and assist them a competent and impartial waterworks engineer. The *Local Government Board* may, after such inquiry, confirm or disallow any such regulation, repeal, or alteration, in whole or in part, or may confirm the same with such modification or alteration as they may think proper; and no such regulation, repeal, or alteration shall be made by the *Local Government Board* on any such report as aforesaid<sup>25</sup> except after a like inquiry and hearing, with the like advice and assistance as aforesaid: Provided that no such regulation, repeal or alteration shall be confirmed or made (as the case may be) by the *Local Government Board* unless notice in that behalf shall have been given by the company to which the same relates, or by such person as the *Local Government Board* direct, in the "London Gazette" and in two daily morning newspapers circulated within the limits of this Act, one month at least before the inquiry; and one month at least before such inquiry is held, a copy of the regulation, repeal, or alteration in question shall be sent by

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<sup>24</sup> That is, by summary proceedings before a justice or magistrate, Sect. 45.

<sup>25</sup> That is to say, the report of the "competent and impartial person" referred to in Sect. 19, *supra*.

such company or person to the office of the metropolitan authority,<sup>26</sup> and the same shall for one month be kept open during office hours at the respective offices of the metropolitan authority and of the said company to the inspection of all persons, without fee or reward, and a copy of the same or of any part thereof shall be furnished to every person who shall apply for the same, on payment of sixpence for every one hundred words contained in such copy.

Sect. 23. A printed copy of all regulations in force for the time being shall be kept at the office of the metropolitan authority and of every company within the limits of this Act, and all persons may at all reasonable times inspect such copy without payment, and each company shall cause to be delivered a printed copy, authenticated by their seal, of all regulations for the time being in force to every person applying for the same, on payment of any sum not exceeding one shilling and sixpence for every such copy, and a printed copy of the regulations for the time being in force relative to any particular district only to every person applying for the same, on payment of any sum not exceeding threepence for every such copy.

Sect. 24. All regulations, and every repeal of or alteration in any regulation made, shall, after publication in manner by the last preceding section of this Act directed, be binding upon and be observed by all parties, and shall be sufficient warrant for all persons acting under the same, and a company shall not be bound under any agreement to supply or continue to supply water to any premises unless such regulations as are for the time being in force are duly observed in respect of those premises.

Sect. 25. A printed copy of regulations relating to any company, dated and purporting to be made as aforesaid, and to be authenticated by the seal of such company, shall be conclusive evidence of the existence and of the due making, confirmation, and publication

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<sup>26</sup> By virtue of the extension of these powers to the borough councils the copy in question will have to be sent to the office of every borough council, any part of whose area is supplied by the company.



of such regulations in all prosecutions or proceedings under the same, without adducing proof of such seals, or of the fact of such confirmation or publication of such regulations, or of any of the requirements of this Act relative thereto having been complied with.

12. *Acquisition of Land*.—Local Government Act, 1888 (51 and 52 Vict., c. 41), Sect. 65, *as applied by Schedule II., Part II., of the London Government Act, 1899*, p. 323.

- (1) A *borough* council may, from time to time, for the purpose of any of their powers and duties, acquire, purchase, or take on lease, or exchange, any lands or any easements or rights, over or in land, whether situate within or without the *borough*, and may acquire, hire, erect, and furnish such halls, buildings, and offices as they may from time to time require, whether within or without their *borough*.
- (2) For the purpose of the purchase, taking on lease, or exchange of such lands, Sections 176, 177, and 178 of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to the *borough* council.<sup>27</sup>
- (3) Where the *borough* council, with the consent of the Local Government Board, sell any land, the proceeds of such sale shall be applied in such manner as the said Board sanction towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.

13. *Bye-laws*.—Sect. 23 of the Municipal Corporations Act, 1882 (45 and 46 Vict., c. 50), as applied by Sect. 16 of the L. G. A., 1888,<sup>28</sup> *as applied by Sched. II., Part II., of the London Government Act, 1899*, p. 151.

<sup>27</sup> Sect. 176 of the P. H. A., 1875, contains regulations as to the purchase of land. It applies generally the provisions of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869. Before proceeding for any compulsory purchase, notices must be published and served on owner and occupiers. This is to be followed by a petition to the Local Government Board for permission for compulsory purchase. That Board may, if it thinks fit, hold a local inquiry, after which it may grant a provisional order (to be submitted to Parliament for confirmation—Sect. 297, see p. 284).

Sect. 177 gives power to local authorities, with the consent of the Local Government Board, to let any lands which they can spare.

Sect. 178 gives power to the Chancellor and Council of the Duchy of Lancaster to sell any lands of the Duchy to any local authority.

<sup>28</sup> Sect. 16 of the L. G. A., 1888, gives to county councils “the same power of making bye-laws in relation to their county, or to any specified part

- (1) The council may, from time to time, make such bye-laws as to them seem meet for the good rule and government of the borough, and for the prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Act in force throughout the borough, and may thereby appoint such fines, not exceeding in any case five pounds, as they deem necessary for the prevention and suppression of offences against the same.<sup>29</sup>
- (2) Such a bye-law shall not be made unless at least two-thirds of the whole number of the council are present.
- (3) Such a bye-law shall not come into force until the expiration of forty days after a copy thereof has been fixed *in some conspicuous place on or near the outer door of the town hall, or if there is no town hall, in some conspicuous place in the borough or ward to which the bye-law relates.*<sup>30</sup>
- (4) Any offence against such a bye-law may be prosecuted summarily.

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or parts thereof, as a council of a borough have of making bye-laws in relation to their borough under Sect. 23 of the Municipal Corporations Act, 1882, and Sect. 187 of the Public Health Act, 1875, shall apply to such bye-laws." This last section provides, in effect, that such bye-laws must be confirmed by the Local Government Board.

<sup>29</sup> This sub-section is modified by Sect. 85 of the L. G. A., 1888, which prohibits its application to bicycles, tricycles, etc., and declares such machines to be carriages within the meaning of the Highway Acts.

<sup>30</sup> The words in italics are adapted from Sect. 232 of the same Act.

## APPENDIX E.

STATUTORY PROVISIONS RELATING TO BORROWING POWERS OF VESTRIES AND DISTRICT BOARDS, WHICH ARE TRANSFERRED TO THE METROPOLITAN BOROUGH COUNCILS, AS APPLIED TO THE LATTER.

[See *London Government Act*, 1899, sect. 4, subs. (1), p. 57.]

1. POWERS THE EXERCISE OF WHICH REQUIRES NO SANCTION FROM ANY OTHER PUBLIC AUTHORITY.

*To pay off existing securities.*—Metropolis Management Act, 1855 (18 and 19 Vict., c. 120), sect. 187. It shall be lawful for every *metropolitan borough council*, with respect to any security for any existing debt or liability which such *council* are by *or under* this Act required to discharge, and any security granted by such *council* under this Act, to raise and borrow the monies necessary for paying off such security, and to pay off the same; and the monies borrowed for the purpose of such payment shall be secured and repaid in like manner as if borrowed for defraying the expenses of the execution of this Act: Provided always, that nothing herein contained shall extend to authorise the paying off of any security otherwise than in accordance with the provisions thereof.

2. POWERS THE EXERCISE OF WHICH IS SUBJECT TO THE SANCTION OF THE LONDON COUNTY COUNCIL.<sup>1</sup>

(a) *General.*—Metropolis Management Act, 1855, sect. 183. It shall be lawful for every *metropolitan borough council* for the purposes of defraying any expenses incurred or to be incurred

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<sup>1</sup> Under the proviso to Sect. 4, subs. (1), of the present Act (p. 57) an appeal is given to the Local Government Board from a refusal to sanction or a conditional sanction on the part of the county council.



by them in the execution of this Act, to borrow and take up at interest, on the credit of all or any of the monies or rates authorized to be raised by them under this Act, any sums of money necessary for defraying any such expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such *council* may mortgage and assign over to the persons by or on behalf of whom such sums are advanced the respective monies or rates upon the credit of which such sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the monies or rates comprised in their respective mortgages, according to the sums in such mortgages mentioned to have been advanced; and each mortgagee shall be entitled to be repaid the sums so advanced, with interest, without any preference over any other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage: Provided always, that no monies shall be so borrowed by any *council* without the previous sanction in writing of the *London County Council*.<sup>2</sup>

*ib.*—Sect. 184. It shall be lawful for the Commissioners acting in the execution of an Act passed in the Session holden in the [fourteenth and fifteenth years of Her Majesty, chapter twenty-three, “to authorize for a further period the advance of money out of the consolidated fund to a limited amount for carrying on public works and fisheries and employment of the poor,”] and any Act or Acts for amending or continuing the same, to make advances to any such *council* upon the security of all or any of the monies or rates to be raised by them under this Act, and without requiring any further or other security than a mortgage of such monies or rates.<sup>3</sup>

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<sup>2</sup> See note (i) to Sect. 4 of the present Act (p. 60).

<sup>3</sup> The Act above referred to, passed in 1851, which created the Public Works Loans Commissioners, was repealed by the Public Works Loans Act, 1875 (38 and 39 Vict., c. 89), which was a consolidation Act, and which re-constituted the Commissioners with amended powers as to making loans to public authorities. The objects for which the Commissioners may lend money are given in the First Schedule, and include baths and washhouses, burial grounds, town improvements, labourers' dwellings, public libraries, and works under the Public Health Act. These, however, were generalised to include “any work for which the council of a county, borough, district, or parish are authorised to borrow,” by the Public Works Loans Act, 1896 (59 and 60 Vict., c. 42), Sect. 2. The Local Loans Fund was established by the National Debt and Local Loans Act, 1887 (50 and 51 Vict., c. 16), Sect. 7. Successive Public Works Loans Acts are passed to fix the maximum sums which may from time to time be appropriated to local loans. It will be possible for the

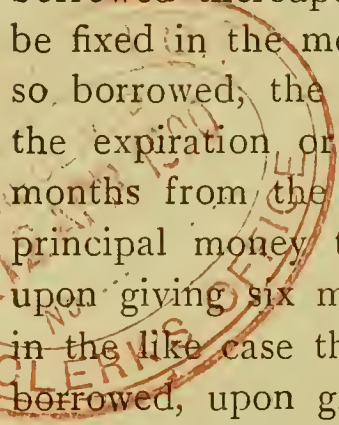
*ib.*—Sect. 186. The *council* making any such mortgage may, if they think proper, fix a time or times for the repayment of all or any principal monies borrowed under this Act, and the payment of the interest thereof respectively, and may provide for the repayment of such monies, with interest, by instalments or otherwise, as they may think fit; and in case the *council* fix the time or times for repayment they shall cause such time or times to be inserted in the mortgage deed; and at the time or

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*Form of Mortgage of Rates.*

In witness whereof the said *council* have hereunto set their seal, this  
day of            one thousand *nine* hundred and





times so fixed for the repayment thereof such principal monies and interest respectively shall, on demand, be paid to the party entitled to receive the same accordingly; and if no other place of payment be inserted in the mortgage deed, the principal and interest shall be payable at the principal office of the *council*, and, unless provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly; and if no time be fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months previous notice for that purpose; and in the like case the *council* may at any time pay off the money borrowed, upon giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee shall be given in manner herein provided for service of notices on the *council*,<sup>5</sup> and if given by the *council* shall be given either personally to such mortgagee or left at his residence, or if such mortgagee or his residence be unknown to them, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the *London Gazette*; and if the council have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the *council* fail to pay the principal and interest due at the expiration of such notice on such mortgage.

*ib.*—Sect. 188. If at the expiration of six months from the time when any principal money or interest has become due upon any mortgage made under this Act, and after demand in writing, the same be not paid, the mortgagee may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are hereby empowered, after hearing the parties, to appoint, in writing under their hands and seals, some person to collect and receive the whole or a competent part of the monies or rates liable to the payment of the principal or interest in respect of which the application is

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<sup>5</sup> For the manner of serving notices on a metropolitan borough council, see Introduction, p. 39.



made, until such principal or interest, or both, as the case may be, together with the costs of the application, and the costs of collection, are fully paid; and upon such appointment being made, all such monies or rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees, and shall be rateably apportioned between or among them, but subject and without prejudice to such rights of priority, if any, as shall then be subsisting between the mortgagees or any of them: Provided always that no mortgagee shall be prejudiced, either directly or indirectly, by any loss which may be occasioned by the misapplication or non-application of any monies or rates received by any receiver appointed otherwise than upon the application or with the express consent of such mortgagee, or by any act, deed, neglect, or default on the part of such receiver, but such loss shall be wholly borne by the mortgagee or mortgagees upon whose application or with whose express consent such receiver was appointed: Provided also, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees, to whom there may be due, after such lapse of time, and that demand, as last aforesaid, monies collectively amounting to that sum.

*ib.*—Sect. 189. Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the Schedule (F.) to this Act annexed,<sup>6</sup> or to the like effect; and there shall be kept at

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## SCHEDULE F.

*Form of Transfer of Mortgage.*

I, *A.B.*, of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ pounds paid to me by *C.D.*, of \_\_\_\_\_, do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage, number \_\_\_\_\_ bearing date the \_\_\_\_\_ day of \_\_\_\_\_ and made by the council of the borough of \_\_\_\_\_ for securing the sum of \_\_\_\_\_ and interest [*or if such transfer be by indorsement on the mortgage, insert, instead of the words after "assigns," the within security*], and all my property, right, and interest in, and to the money thereby accrued, and in and to the moneys thereby assigned. In witness whereof I have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand \_\_\_\_\_

A.B.

(L. S.).

the office of every *council* making any mortgages under this Act, a register of the transfers of such mortgages ; and within thirty days after the date of any such deed or transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the *council* making the mortgage ; and such clerk shall, upon payment of the sum of five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer ; and upon any transfer being so registered, the transferee, his executor, administrators, or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby ; and every such transferee may in like manner transfer his estate and interest in any such mortgage ; and no person, except the person to whom the same has been last transferred, his executors, administrators or assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby.

*Sinking Fund.—ib.—sect. 190.* For the purpose of providing a fund for paying off mortgages granted under this Act, the *council* granting such mortgage shall once in every year set aside, out of the monies or rates charged thereby, such sum as they think proper, being not less than two pounds *per centum* on the amount of the principal monies secured thereby ; and the sum so from time to time set aside, and all other monies applied by the *council* in augmentation of the said fund, shall be applied, in the manner hereinafter directed,<sup>7</sup> in payment, so far as the same will extend, of the principal money secured by such mortgages, or the same shall be invested in the public funds, or on government or real security, in the name of the *council* ; and the dividends and interest of the monies so invested, when and as the same become due, shall from time to time be received and invested in like manner, in order that the said monies so set aside and invested may accumulate at compound interest ; and when such accumulated fund amounts to a sum which, in the opinion of the *council*, can be conveniently applied for that purpose, the stocks, funds or securities wherein the same is invested shall be sold or otherwise converted into money, and

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<sup>7</sup> That is, by Sect. 191 next cited.



the monies arising from any such sale and conversion shall be applied, in the manner hereinafter directed,<sup>7</sup> in payment, so far as the same will extend, of the said principal monies, and so from time to time until the whole of the said principal monies are discharged.

*Mode of paying off Mortgages.—ib.—sect. 191.*—When and as often as the *council* are enabled and think it expedient to pay off one or more of the said mortgages, they shall cause the several numbers of such mortgages to be written upon distinct slips of paper of an equal size, and all such slips shall be rolled or folded up in a similar form, and put in a box, and the clerk of the said *council* shall, at a meeting of the *council*, draw separately out of the said box one of the said slips, and thereupon the mortgage corresponding with the number so drawn shall be paid off by the *council*; and after every such ballot the *council* shall cause a notice, signed by the clerk, to be given to the person entitled to the money to be paid off, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified in such notice, at the expiration of six months from the date of giving such notice; and at the expiration of such period the interest of the principal money to be paid off shall cease, unless such principal money and interest be not paid, on demand, pursuant to such notice; but such principal money, and the interest thereof to the end of the said six months, shall nevertheless be payable, on demand.<sup>8</sup>

(b) *To improve Streets.*—Metropolis Management Act, 1862 (25 and 26 Vict., c. 102), Sect. 72.—The *council* of every *metropolitan borough* shall, with the previous consent in writing of the *London County Council*, have power within their respective *boroughs* to make, extend, widen, alter, or improve any street, road, or way, or any bridge over a canal<sup>9</sup> traversing any part of such *borough*, for the purpose of facilitating passage and traffic,

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<sup>8</sup> The above arrangements for taking a ballot preparatory to paying off loans has and will have little or no application in practice, inasmuch as nearly all loans which will be raised by the borough councils will be under definite conditions, expressed in the mortgage deeds, for the repayment of principal and interest by ascertained instalments at particular times spread over a stated period. Compare note (j) to Sect. 4, p. 62.

<sup>9</sup> There is, however, a proviso in the section that no bridge over a canal may be interfered with without the consent of the company owning the same; and Sect. 107 of the M. M. A., 1855, is applied, which forbids the taking down of any bar, gate, rail, or fence without the consent of the owner of the property in which the same is situate.



or for any other public purpose; or to contribute and join with the *London County Council*, or with any other body or persons, in any such improvements; and to take by agreement or gift any land, right in land, or property for the purposes aforesaid, or any of them, on such terms and conditions as they may think fit . . . . and the expenses incurred by any *borough council* in any such improvements shall be paid out of the general rate . . . . Provided also that it shall be lawful for any such *council* under the provision contained in the one hundred and eighty-third section of the *Metropolis Management Act*, 1855,<sup>10</sup> to borrow and take up at interest on the credit of all or any of the monies or rates authorised to be raised by them under that Act any sums necessary for defraying the expenses of any such improvements.

*Ib.*, Sect. 100. It shall be lawful for every *metropolitan borough council* to exercise the power to borrow monies mentioned in the one hundred and eighty-third section of the *Metropolis Management Act*, 1855,<sup>10</sup> with the sanction of the *London County Council* granted under their common seal, for the purpose of enabling such *council* to make, extend, widen, alter, or improve any street, road, or way, for facilitating the passage and traffic within their *borough*, or for the purpose of contributing to and of joining with the *London County Council* or with any other Board or persons in any such improvement.

(c) *To meet expenses under Part II. of the Housing of the Working Classes Act*, 1890—*unhealthy and obstructive buildings*.<sup>11</sup> Housing of the Working Classes Act, 1890 (53 and 54 Vict., c. 70), Sect. 43.—(1) A local authority<sup>12</sup> may borrow for the purpose of raising sums required for purchase money or compensation payable under this part<sup>13</sup> of this Act in like manner, and subject to the like conditions, as for the purpose of defraying the expenses of the execution by such authority of

<sup>10</sup> For this section see *supra*, p. 257. The provision referred to in that section is that which requires the sanction of the *London County Council*. Compare note 1 on p. 257.

<sup>11</sup> For the provisions of Part II. of the Housing Act, 1890, see note (d) to Sect. 5 of the present Act, p. 68.

<sup>12</sup> This means, in London, the metropolitan boroughs. See note (d) to Sect. 5 of the present Act, p. 71.

<sup>13</sup> *i.e.*, Part II.

the Public Health Acts.<sup>14</sup> (2) The Public Works Loan Commissioners may,<sup>15</sup> if they think fit, lend to any local authority<sup>12</sup> the sums borrowed in pursuance of this part of this Act.

(d) *To meet expenses under Part II. of the Housing of the Working Classes Act—1890, on reconstruction schemes.*<sup>16</sup>—Housing of the Working Classes Act, 1894 (57 and 58 Vict., c. 55).—Sect. 1. For any purpose for which a local authority<sup>12</sup> are, by a scheme for reconstruction duly sanctioned under Part II. of the Housing of the Working Classes Act, 1890, or by the order sanctioning the scheme, authorised to borrow, the authority shall have power, and shall be deemed always to have had power to borrow in like manner and subject to the like conditions as they may borrow under Section forty-three<sup>17</sup> of that Act for the purpose of raising the sums required for the purchase money or compensation therein mentioned, and Sections forty-three and forty-six<sup>18</sup> of that Act shall apply accordingly.

(e) *To meet expenses under Part III. of the Housing of the Working Classes Act, 1890.—Working Class Lodging Houses.*<sup>19</sup>—Sect. 66 of the Housing Act, 1890, gives to the London County Council borrowing powers for the purposes of this Part of the Act; and concurrent powers being given by the present Act—Sect. 5, sub. (2), p. 111, and Sched. II., Part II., p. 323—to the metropolitan borough councils for the same purposes, the like borrowing powers will be conferred upon them. The Public Works Loan Commissioners are authorised to lend money for these purposes by Sect. 25, subs. (5), of the Housing Act, 1890.<sup>20</sup>

<sup>14</sup> By Section 46 of the same Act the provisions of the Public Health Acts in these respects were expressly applied to London, and borrowing powers were given, subject to the consent of the London County Council, under Sect. 183 of the M. M. A., 1855. And the London County Council were empowered to lend to the local authorities for the purposes in question the necessary money.

<sup>15</sup> See note 3 to this Appendix, *supra*, p. 258.

<sup>16</sup> As to reconstruction schemes under Part II., see note (d) to Sect. 5 of the present Act, p. 71.

<sup>17</sup> Cited *supra*, p. 264.

<sup>18</sup> Summarised in note 14 of this Appendix, *supra*.

<sup>19</sup> See note (d) to Sect. 5 of the present Act, p. 72.

<sup>20</sup> By Sect. 25, subs. (2), of the Housing Act, 1890, the London County Council are empowered, with the assent of the Treasury, to create stock for the purpose of raising money to defray expenses incurred in carrying out their powers under the Act. But it can hardly have been intended to extend such powers to metropolitan boroughs, nor does the present Act expressly extend them.



(f) *For providing hospitals and mortuaries.*<sup>21</sup>—Public Health (London) Act, 1891 (54 and 55 Vict., c. 76), Sect. 105—(1). The provision of hospitals and of mortuaries under this Act, and the purposes of the epidemic regulations under this Act, shall be purposes for which *metropolitan borough councils* are authorised to borrow.<sup>22</sup>

(g) *For the removal of refuse.*<sup>23</sup>—Public Health (London) Act, 1891, Amendment Act, 1893 (56 and 57 Vict., c. 47), sect. 3. Expenses incurred or to be incurred by a *metropolitan borough council* as sanitary authority for and in connexion with the provision of land, wharves, destructors, plant, and equipment for the purposes of collection, removal, and disposal of house and street refuse, shall be and be deemed to have been expenses for the purpose of which such council may borrow money as expenses incurred by them in the execution of the Metropolis Management Act, 1855. And sections one hundred and eighty-three to one hundred and ninety-one (both included) of that Act shall apply and have effect accordingly.<sup>24</sup>

(h) *For electric lighting purposes.*<sup>25</sup>—Electric Lighting Act, 1882 (45 and 46 Vict., c. 56), sect. 8.—A local authority<sup>26</sup> authorised to supply electricity by any license, order, or special Act may from time to time borrow money on such security,

<sup>21</sup> Sect. 75 gives power to provide hospitals; Sect. 88 requires every sanitary authority (which expression means, in London outside the City, the authorities whose powers are transferred to the borough councils by Sect. 99, subs. (1), of the same Act) to provide a mortuary, and Sect. 82 requires them to carry out the “epidemic regulations” issued by the Local Government Board under Sect. 134 of the Public Health Act, which is applied and set out in the first Schedule, including the appointment of medical and other officers, and the taking of legal proceedings.

<sup>22</sup> Sect. 105, subs. (3), of the same Act assimilates these borrowing powers to the general borrowing powers of the same authorities, thus applying Sect. 183 and the other sections of the M. M. A., 1855, *supra*, p. 257.

<sup>23</sup> Certain powers were given to vestries and district boards for the removal of street and other refuse by the M. M. A., 1855; but these were for the most part repealed, and much larger powers given by the Public Health (London) Act, 1891, Sects. 29 to 36.

<sup>24</sup> For these sections see *supra*, pp. 257 *sqq.*

<sup>25</sup> The metropolitan borough councils, as transferees of the powers of the vestries and district boards, will have power to supply electricity within their respective boroughs for public or private purposes, under a license or provisional order of the Board of Trade, or by special Act, subject to regulations made by that Board, and to the provisions of the Electric Lighting Act, 1882.—See p. 249.

<sup>26</sup> The expression “local authority” means, in London outside the City, the vestries and district boards, and therefore will mean the borough councils (Electric Lighting Act, 1882, Sect. 31 and Sched.).



with such consent and subject to such provisions and restrictions with respect to borrowing and the repayment of loans, as are in the Schedule to this Act in that behalf mentioned.<sup>27</sup>

(i) *For the acquisition and maintenance of open spaces.*<sup>28</sup>—Metropolitan Open Spaces Act, 1881 (44 and 45 Vict., c. 34), Sect. 10.—All expenses incurred under this Act by any *metropolitan borough council* shall be defrayed out of the fund at the disposal of such *council*, or which such *council* are empowered to raise under the Metropolis Management Act, 1855,<sup>29</sup> and the several Acts amending the same; and such expense shall be deemed to be expenses for which provision is made by such Acts.

(j) *For the erection of Town Halls.*—London County Council (General Powers) Act, 1893 (56 and 57 Vict., c. ccxxi.).—By virtue of Sect. 24 a borough council may erect any hall or other building to be used for the purposes of business, or partly for business and partly for public meetings, assemblies, entertainments, libraries, &c.; and they may adapt any building now used by them for the like purposes.

### 3. POWERS THE EXERCISE OF WHICH IS SUBJECT TO THE SANCTION OF THE LOCAL GOVERNMENT BOARD.

(a) Public Health (London) Act, 1891 (54 and 55 Vict., c. 76, Sect. 105 (2).—A sanitary authority,<sup>30</sup> with the consent of the Local Government Board, may borrow for the purpose of providing as required or authorised by this Act. (a) Sanitary conveniences, lavatories and ashpits, and (b) premises, apparatus, carriages, and vessels for the disinfection, destruction, and removal of infected articles, and (c) a building for *post-mortem* examinations and accommodation for the holding of inquests.<sup>31</sup>

<sup>27</sup> The Schedule provides, for London, as adapted to the new boroughs, that the security for the loan will be the general rate, the consent required will be that of the London County Council, subject to appeal under the proviso to Sect. 4, subs. (1), of the present Act, and the provisions and restrictions are those of Sects. 183 to 191 of the Metropolis Management Act, 1855, cited *supra*, pp. 257 *sqq.*

<sup>28</sup> The powers which the borough councils will under the present Act have in respect of the acquisition and maintenance of open spaces are given by the Metropolitan Open Spaces Acts, 1877 to 1890; 40 and 41 Vict., c. 35; 44 and 45 Vict., c. 34; 50 and 51 Vict., c. 32; 53 and 54 Vict., c. 15.

<sup>29</sup> The provisions referred to are cited *supra*, pp. 257 *sqq.*

<sup>30</sup> By Sect. 99, subs. (1), of the same Act this expression is defined to mean, in London outside the city, the authorities whose powers are transferred to the metropolitan borough councils under Sect. 4, subs. (1), of the present Act, p. 57.

<sup>31</sup> Power is given to provide sanitary conveniences, lavatories, and ashpits by Sect. 44, subs. (1); to provide premises, apparatus, carriages, and vessels

(b) *For the purposes of the Adoptive Acts*<sup>32</sup> *where they or any of them have been or may hereafter be adopted.*

(c) *For obtaining Provisional Orders.*—Sect. 28, subs. (1), of the present Act (p. 131) applies Sects. 297 and 298 of the Public Health Act, 1875 (38 and 39 Vict., c. 55), to any Provisional Order made under the present Act. For these sects., see App. K., pp. 284-5. Sect. 298 gives power to a *borough council* (if thought expedient by the Local Government Board) to contract a loan for the purpose of defraying the costs.

(d) *For providing shelter for persons removed from home in cases of infectious disease.*—London County Council (General Powers) Act, 1896 (59 and 60 Vict., c. clxxxviii.), Sect. 32. This section extends the borrowing powers granted by Sect. 105 of the Public Health (London) Act, 1891, to the expense of providing shelter or accommodation for persons removed from home in cases of infectious disease. Compare par. (a) *supra*.

(e) *For the expenses of making the quinquennial valuation list* in those boroughs in which the assessment committee is appointed by the borough council.<sup>33</sup>—The Valuation (Metropolis) Act, 1869 (32 and 33 Vict., c. 67), provides for a quinquennial re-valuation of all rateable property in the metropolis. This is done by, or under the supervision of, the different assessment committees, as to which, under the present Act, see Sect. 13, p. 96. The Valuation Act incorporates the Union Assessment Committee Acts of 1862 (25 and 26 Vict., c. 103), and 1864 (27 and 28 Vict., c. 39); and by virtue of Sect. 8 of this last Act, the body appointing an Assessment Committee are empowered, with the sanction of the Local Government Board, to borrow the requisite amount to pay the cost of any valuations made by the assessment committee.

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for destruction, disinfection, and removal of infected articles by Sect. 59; and to provide and maintain a building (otherwise than at a workhouse) for the reception of dead bodies during the time required to conduct any post-mortem examination by Sect. 90 of the same Act. By Sect. 92 the county council are to provide and maintain proper accommodation for the holding of inquests; but they may agree with a borough council to connect the same with the mortuary or post-mortem building of the latter.

<sup>32</sup> As to these Acts see Appendix F., pp. 269 *sqq.* The power of borrowing money, however, under the Burial Acts for providing and laying out a burial-ground and building a chapel or chapels thereon requires the sanction of the Treasury. See Burial Act, 1852, 15 and 16 Vict. c. 85, Sects. 20, 21.

<sup>33</sup> The list of these boroughs is given in note (e) to sect. 13, p. 97.

## APPENDIX F.

## THE ADOPTIVE ACTS.

[The expression “Adoptive Acts” means the Baths and Washhouses Acts, 1846 to 1896, the Burial Acts, 1852 to 1885, and the Public Libraries Acts, 1892 and 1893.—*London Government Act*, 1899, *Sect.* 34, p. 142.]

[Sect. 4, subs. (2), of the present Act, p. 58, provides for the abolition of all Baths and Washhouses Commissioners, Public Libraries Commissioners, and Burial Boards in the new boroughs, and declares the borough council the authority for administering the adoptive Acts; and subs. (4), p. 58, gives power to adopt any of those Acts.]

[Sect. 16, subs. (1), p. 103, gives power to the Commissioners to provide by scheme for such adjustments as may be required for the efficient maintenance of any libraries, baths, or washhouses established under the adoptive Acts.]

I. *Baths and Washhouses Acts*, 1846 to 1896.—For the list of these Acts see note (*h*) to Sect. 34, p. 144.

1. The Act of 1846 (9 and 10 Vict., c. 74) gave power to adopt the Act to any incorporated borough under the Municipal Corporations Act, 1835, or any Act passed for the amendment thereof, and also, with the approval of a Secretary of State, for any parish in England not in any such borough. Sect. 1.

The council of any such borough might determine to adopt the Act. Sect. 3.

The expense of carrying the Act into execution was to be charged to the borough fund. Sect. 4.

And as to parishes not in such boroughs on the requisition of ten or more ratepayers, the churchwardens or other persons whose duty it is must convene a meeting of the vestry to determine whether the Act shall be adopted for the parish; and if they resolve in the affirmative, and the Secretary of State signify



his approval, then the Act shall be put in force for the parish ; but there must in this case be a majority of two-thirds of those voting in favour of the resolution. Sect. 5.

And in such case the vestry is to appoint commissioners to carry out the Act. Sect. 6.

Sects. 7 to 18 contain executory provisions as to powers, duties, and finance.

By sect. 19 the vestries of two or more parishes may combine for the purposes of the Act, subject to the approval of the Secretary of State.

Sect. 20 makes the commissioners a body corporate. Sects. 21 to 24 contain borrowing powers, &c.

By sect. 25 power is given to the borough council and to the commissioners respectively to erect, fit up, and furnish public baths and washhouses and open bathing places.

Sects. 26 to 31 contain consequential executive powers.

Sect. 32 provides that when baths, washhouses, &c., after being established for seven years or upwards, are found unnecessary or too expensive, they may, with the approval of the Treasury, be sold, and the proceeds carried to the borough fund or poor rate.

Sect. 33 vests the management in the councils and commissioners respectively.

Sect. 34 gives power to make bye-laws ; such, however, must have the approval of a Secretary of State.

The remaining sections concern the fixing up of bye-laws baths for the labouring classes, charges to be made, and penalties for overcharge.

2. The Act of 1847 (10 and 11 Vict., c. 61) provides (sect. 4) that lands taken shall be taken only by agreement, and under the Lands Clauses Act, 1845 (8 and 9 Vict., c. 18) ; regulates (sect. 5) the proportion of washing tubs for the labouring classes, and provides (sects. 6 and 7) an amended scale of charges for baths and washhouses.

3. The Act of 1878 (41 Vict., c. 14) defined (sect. 3) the "council and commissioners" (who were the respective authorities under the former Acts) as including the urban authority under the Public Health Act, 1875 (38 and 39 Vict., c. 55), sect. 10.<sup>1</sup>

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<sup>1</sup> This section gives general powers to urban authorities to execute the Acts, and to adopt them where not in force.

Sect. 3 extended the provisions of the former Acts to covered swimming baths; and sect. 5 gave power to close baths in winter and to establish therein gymnasiums, &c., or to use them as empty buildings for recreation or exercise or for meetings (except music or dancing). And the other sections contained auxiliary powers.

4. The Act of 1882 (45 and 46 Vict., c. 30) extended the power to purchase lands and to buy baths and washhouses within the borough or parish to lands, baths, &c., in the immediate neighbourhood thereof (sects. 2 and 3).

5. The Act of 1896 (59 and 60 Vict., c. 59) repealed the restriction against music and dancing (*supra* parag. 3) as far as the administrative county of London is concerned; but in that case the license of the London County Council must be obtained, the license must be an occasional one, and no money must be taken at the doors.

II. *Burial Acts, 1852 to 1885*.—For the list of these Acts see note (h) to sect. 34, p. 144.

1. The Act of 1852 (15 and 16 Vict., c. 85) gave power to the Privy Council, on the representation of the Secretary of State, to order the discontinuance, total or partial, of burials in the metropolis (sect. 2); and sects. 3 to 8 contain ancillary provisions and exceptions.

Sect. 9 provides that no new burial-ground shall be used in the metropolis or within two miles thereof without the approval of a Secretary of State.<sup>2</sup>

Sect. 10 provides that on the requisition of ten or more ratepayers of any parish in the metropolis a meeting of the vestry must be convened to determine whether a burial-ground shall be provided for such parish; and if the resolution passes, a copy thereof is to be sent to a Secretary of State.

On the passing of such resolution the vestry are to appoint a burial board—sect. 11; and sects. 12 to 22 set out their powers (including borrowing powers) and duties.

By sect. 23 vestries of parishes may concur in providing a

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<sup>2</sup> This provision applies to an addition to an existing burial-ground.—*Ward v. Mayor, &c., of Portsmouth*, 1898, 2 Ch. 191. This case was decided under the corresponding section of the Act of 1853 (16 and 17 Vict., c. 134, Sect. 6), which applies to places outside the metropolis. It was held, however, that the section does not prohibit the contracting to purchase land for the purpose of a burial-ground without the approval of a Secretary of State, and that the contract was binding and the vendor entitled to damages for the breach of it, he not insisting on specific performance.

burial-ground for the common use of such parishes, and for a joint board.

Sects. 24 to 43 contain various powers for incorporation of burial-boards, purchase, appropriation, and sale of lands, fees, &c., &c.

2. The Act of 1853 (16 and 17 Vict., c. 134) is not of sufficient importance to be summarised here. It deals mainly with extra-metropolitan places.

And in such case the vestry is to appoint commissioners.

3. The Act of 1854 (17 and 18 Vict., c. 87) is entirely extra-metropolitan, and would have had no application here but for the provision of subs. (4) of sect. 4 of the present Act (p. 58), which may possibly make it so. Its relevant provisions relate to borrowing powers to pay off mortgages, &c.

4. The Act of 1855 (18 and 19 Vict., c. 128), which is general, gives wider powers as to orders respecting discontinuance of burials (sect. 1); gives an initiative to, and imposes a duty on, churchwardens or other parish authorities to call vestry meetings to consider the question of providing burial-grounds (sect. 3), and contains sundry executive provisions.

5. The Act of 1857 (20 and 21 Vict., c. 35) relates only to the City of London.

6. The Act of the same Session, c. 81, is general. It contains various provisions not of sufficient importance to be here cited. Further borrowing powers are given (sect. 21); and burial boards are required to provide a sinking fund to pay off mortgages (sect. 20). Municipal councils are empowered to make a separate burial rate (sect. 22). Discontinued cemeteries may be purchased in certain cases by burial boards (sect. 26). Bodies may not be removed from burial grounds without licence of the Secretary of State, except by faculty granted by the ordinary for that purpose (sect. 25).<sup>3</sup>

7. The Act of 1859 (22 Vict., c. 1) is now of no importance.

8. The Act of 1860 (23 and 24 Vict., c. 64) contains power for payment of expenses out of general rate or improvement rate (as the case may be) or by a separate rate. These are

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<sup>3</sup> The Consistory Court will issue a faculty where an Order in Council has been made.—*Rector, &c., of St. Mary-at-Hill v. Parishioners of same*, 1892, P. 394; *St. Michael, Bassishaw, v. Parishioners of same*, 1893, P. 233. As to the power of the Ordinary to grant a faculty for exhumation for the purpose of identification, see *Reg. v. Dr. Tristram* (Judge of the Consistory Court of London), 1898, 2 Q. B., 371; *Druce v. Young*, 1899, P. 84.



unimportant under the present Act, as all expenses will be levied as part of the general rate. (Sect. 10, subs. 4, p. 87.)

9. The Act of 1862 (25 and 26 Vict., c. 100) gives power to burial boards to borrow on mortgage of the improvement or burial rate, with the approval of the Treasury.

10. The Act of 1871 (34 and 35 Vict., c. 33) provides that a burial board is not to be appointed by a vestry until their resolution for that purpose has been approved by the Secretary of State.

11. The Act of 1880 (43 and 44 Vict., c. 41) does not deal with the operation of the Burial Acts as adoptive Acts, but makes various provisions for orderly burial, for burial without religious service, &c.

12. The Act of 1881 (44 and 45 Vict., c. 2) merely contains an explanation of words in the Act of 1880, and is wholly unimportant here.

13. The Act of 1885 (48 and 49 Vict., c. 21) deals with contested elections of burial boards, and can have no application under the present Act.

III. *Public Libraries Acts, 1892 and 1893.*—The Act of 1892 (55 and 56 Vict., c. 53) repeals all previous Public Libraries Acts.

By sect. 2 the highest public library rate is fixed at one penny in the pound.<sup>4</sup> And the Act may be adopted subject to a limitation to a  $\frac{1}{2}$ d. or  $\frac{3}{4}$ d. rate, but such limitation may be subsequently removed.

Sect. 3 contains the proceedings to be taken for adopting the Act; but this section was repealed, as regards urban districts, by the Act of 1893 (56 Vict., c. 11), sect. 2, subs. (2).

In urban districts, under the latter Act (sects. 2, 3), the Acts may be adopted by a resolution of the urban authority (instead of by "consent of the voters," as formerly). The resolution must be passed at a meeting, after special notice thereof, one month before, has been given to every member of the authority. The resolution must be advertised and posted up, and a copy of it sent to the Local Government Board.

By sect. 11 of the Principal Act (1892) powers are given, subject to the provisions of the Act, to provide all or any of the following institutions, namely: public libraries, public museums, schools for science, art galleries, and schools for art;

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<sup>4</sup> This limitation does not apply in the City of London (Sect. 21, subs. (4)).

and for that purpose to purchase and hire land and erect, take down, re-build, alter, repair and extend buildings, and fit up, furnish, and supply the same with all requisite furniture, fittings, and conveniences. And where any of such institutions already exists or is afterwards established, any other of them may be established in connection therewith.

No charge is to be made for admission to a library or museum; nor, to the inhabitants, for the use of a lending library; but the use of the latter may be granted to outsiders either gratuitously or for payment, if the authority think fit.

By sect. 12 the Lands Clauses Acts are applied for the purpose of the purchase of land, except the provisions as to compulsory purchase. In London, a *borough council* may, with the sanction of the Local Government Board, appropriate for the purposes of the Acts any land vested in them (sect. 23). With the like sanction they may sell or exchange land (sect. 12, sub. 3), and they may let a house or building or land vested in them for the purposes of the Act which is not at the time required for those purposes (*ib.*—sub. 4).

By sect. 13 any person holding land for ecclesiastical, parochial, or charitable purposes may, for the purposes of the Act, give, sell, or exchange not more, in any one case, than an acre of such land. Provided that—

(a) Ecclesiastical property shall not be granted or conveyed for those purposes without the consent of the Ecclesiastical Commissioners; and

(b) parochial property shall not be so granted or conveyed save by the board of guardians of the poor law union comprising the parish to which the property belongs, or without the consent of the Local Government Board; and

(c) other charitable property shall not be so granted or conveyed without the consent of the Charity Commissioners.

(e) In London, land held on trusts to be preserved as an open space, or on trusts which prohibit building thereon, shall not be granted or conveyed for the purposes of this Act.

Any land so granted or conveyed may be held by the authority without any licence in mortmain.

By sect. 14 all land appropriated, purchased, or rented, and all other property acquired under the Act, vests in the authority.

By sect. 15 the general management, regulation, and control vests in the authority, who may provide books, newspapers, maps,



&c., and appoint and dismiss officers and servants, and make regulations. And subs. (3) of that section gives power to an urban authority to delegate to a committee all or any of their powers and duties under this section. Persons appointed to be members of the committee need not be members of the urban authority.<sup>5</sup>

Sect. 16 contains powers to library authorities to make agreements for sharing the cost of purchase, erection, or maintenance of buildings and other expenses of libraries, museums, science and art schools, etc.

Sect. 17 gives power to library authorities to accept a parliamentary grant from the Science and Art Department, and to bind themselves by the conditions of such grant.

Sect. 18 contains the provisions for defraying the expenses incurred in the execution of the Act. These, however, in London will be met under the general rate by sect. 10 of the present Act, p. 87.

Sect. 19 gives borrowing powers to library authorities with the sanction of the Local Government Board, and authorises the Public Works Loan Commissioners to lend the money under the Public Works Loan Act, 1875 (38 and 39 Vict., c. 89). See note 3 to Appendix E., p. 258. The following sections of the Public Health Act, 1875 (38 and 39 Vict., c. 55), are applied, "with the necessary modifications," to all money borrowed by a library authority for the purposes of the Act—233, 234, and 236 to 239. The only provisions in these sections which are of any separate importance under the present Act are, that money must not be borrowed except for permanent works, *i.e.*, works of which the cost ought, in the opinion of the Local Government Board, to be spread over a term of years (sect. 234, subs. 1); and no money may be borrowed for a longer time than sixty years (*ib.*—sub. 4). Forms of mortgage and transfer are provided for, and are supplied in Schedule IV., and a register of mortgages, open to public inspection, is required to be kept.

Sect. 20 provides for the keeping of separate accounts and for audit.

Sects. 21 to 23 contain provisions affecting London only, but these, so far as they apply under the present Act, have already been given.

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<sup>5</sup> Compare Sect. 8, subs. (1), of the present Act, p. 83.



LIST OF METROPOLITAN BOROUGHES IN WHICH  
ANY OF THE ADOPTIVE ACTS ARE IN FORCE,  
AND WHETHER OVER THE WHOLE OR  
ONLY PART OF THE BOROUGH.

| BOROUGH.            | ACTS.*             | AREA OF OPERATION.                                |
|---------------------|--------------------|---|
| 1. Battersea . .    | B. and W., L., Bu. | The whole borough.                                |
| 2. Bethnal Green    | B. and W.          | The whole borough.                                |
| 3. Camberwell . .   | B. and W., L., Bu. | The whole borough.                                |
| 4. Chelsea . . .    | B. and W., L.      | The whole borough.                                |
| 5. Fulham . . .     | B. and W., L., Bu. | The whole borough.                                |
| 6. Hackney . . .    | B. and W.          | The whole borough.                                |
| 7. Hammersmith      | L., Bu.            | The whole borough.                                |
| 8. Hampstead . .    | B. and W., L., Bu. | The whole borough.                                |
| 9. Islington . . .  | B. and W., Bu.     | The whole borough.                                |
| 10. Kensington . .  | B. and W., L., Bu. | The whole borough.                                |
| 11. Lambeth . . .   | B. and W., L., Bu. | The whole borough.                                |
| 12. Paddington . .  | B. and W., Bu.     | The whole borough.                                |
| 13. St. Marylebone  | B. and W., Bu.     | The whole borough.                                |
| 14. St. Pancras . . | B. and W., Bu.     | The whole borough.                                |
| 15. Shoreditch . .  | B. and W., L., Bu. | The whole borough.                                |
| 16. Stepney . . .   | L.                 | The whole borough.                                |
| „                   | B. and W.          | St. George-in-the-East,<br>Whitechapel, Ratcliff. |
| 17. Poplar . . .    | B. and W., L.      | The whole borough.                                |
| 18. Wandsworth . .  | L., Bu.            | The whole borough, ex-<br>cept Tooting Graveney.  |
| 19. Southwark . .   | L.                 | The whole borough.                                |
| „                   | B. and W., Bu.     | Newington & St. Saviour.                          |
| 20. Bermondsey . .  | B. and W., L.      | Bermondsey and Rother-<br>hithe only.             |
| 21. Holborn† . . .  | B. and W., L.      | St. Giles and St. George,<br>Bloomsbury.          |
| 22. Finsbury‡ . .   | L.                 | Clerkenwell.                                      |
| 23. Deptford . . .  | B. and W., Bu.     | The whole borough.                                |
| 24. Greenwich . .   | Bu.                | Greenwich and Charlton.                           |
| „                   | B. and W.          | Greenwich only.                                   |
| 25. Lewisham . . .  | Bu.                | The whole borough.                                |
| „                   | B. and W., L.      | Lewisham parish only.                             |

\* B. and W.—Baths and Washhouses Acts; L.—Public Libraries Acts; Bu.—Burial Acts.

† St. Andrew and St. George-the-Martyr and Saffron Hill share in the Public Library established by the present Holborn District Board.

‡ Glasshouse Yard and St. Sepulchre share in the Public Library established by the present Holborn District Board.

| BOROUGH.                       | ACTS.              | AREA OF OPERATION.                                   |
|--------------------------------|--------------------|--|
| 26. Woolwich . . .             | B. and W., L., Bu. | The whole borough,<br>except Eltham.                 |
| 27. Westminster .              | B. and W., L., Bu. | St. George, Hanover<br>Square, and St.<br>Margaret   |
| „                              | B. and W.          | St. James and St. Mar-<br>tin's-in-the-Fields.       |
| „                              | L.                 | St. Martin's-in-the-Fields<br>and St. Paul, jointly. |
| „                              | Bu.                | St. Anne.  |
| 28. Stoke Newing-<br>ton . . . | L., Bu.            | Stoke Newington parish.                              |

Penge has adopted the Public Libraries Acts.

## APPENDIX G.

[See *London Government Act*, 1899, Sect. 8, subs. (4), p. 83.]

*Joint Committees.*—Local Government Act, 1894 (56 and 57 Vict., c. 73), Sect. 57 (*as applied to metropolitan borough councils*).—(1) A *borough council* may concur with any other *borough council* or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested,<sup>1</sup> and in conferring, with or without conditions or restrictions,<sup>2</sup> on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own *borough*.

(2) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.<sup>3</sup>

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<sup>1</sup> Many important purposes may be suggested for which borough councils which are conterminous may find it beneficial to appoint such joint committees. In some instances it may be desirable to confer considerable executive powers on such a committee; in others it might be made mainly advisory. For instance, where important thoroughfares run through or form the boundaries of two or more boroughs, uniformity, efficiency and economy of maintenance would seem to call for joint action; and two or more boroughs may conjointly effect objects which one alone could not afford, or would not have sufficient occasion for, to justify the expense. Thus the Public Health (London) Act, 1891, sect. 75 and 91, expressly empowers Sanitary Authorities to combine for the establishment of hospitals, mortuaries, &c.

<sup>2</sup> That is the appointing councils may either simply *refer* a matter to a joint committee to consider and report, or may *delegate* to the committee (with or without instructions or restrictions) the carrying out of any purpose. By the present Act, sect. 8, subs. (2) (see p. 83), the like power of delegation to committees is given to individual borough councils. Compare Note (c) to that Sect., p. 84.

<sup>3</sup> This, as applied, will presumably mean the 9th November, though the present Act does not call this the annual meeting. By sect. 199 of the Public Health Act, 1875, and the schedule thereto, every urban authority must hold an annual meeting as near the 15th April as practicable, and this was applied to district councils by sect. 59, subs. (1), of the L. G. A., 1894.



(4) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportion as they may agree upon, or as may be determined in case of difference by the *Local Government Board*.<sup>4</sup>

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<sup>4</sup> Sect. 28, subs. (3), of the present Act, p. 131, will apply to any such determination by the Local Government Board. Compare Note (g) to that section, p. 132.

The costs of a joint committee which is merely advisory will include as a rule little more than clerical and office expenses, with perhaps fees for experts, reports and the like. But those of an executive committee would embrace the expenses of carrying out works, maintenance, &c. ; and in these respects the constituting councils may be interested in very different proportions.

## APPENDIX H.

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[See *London Government Act*, 1899, Sect. 16, subs. (1) (c).<sup>1</sup>]

### I. ALTERATION, DIVISION, AND UNION OF PARISHES.

Local Government Act, 1888 (51 and 52 Vict., c. 41), sect. 57, *as applied*.

(1) Whenever *the Commissioners under this Act*<sup>2</sup> are satisfied that a *primâ facie* case is made out . . . as respects any parish in any metropolitan borough for a proposal for all or any of the following things; that is to say—

- (a) The alteration or definition of the boundary thereof;
- (b) The division thereof or the union thereof with any other . . . parish or parishes, or the transfer of part of a parish to another parish<sup>3</sup>—

*the Commissioners* may cause such inquiry to be made in the locality, and such notice to be given, both in the locality and to the Local Government Board, *the Board of Education*,<sup>4</sup> or other Government Department as may be prescribed,<sup>5</sup> and such

<sup>1</sup> See p. 102 and note (a) p. 106.

<sup>2</sup> That is, the *London Government Act*, 1899.

<sup>3</sup> The subsection goes on to mention the conversion or transfer of rural and urban districts, to which the present Act is inapplicable, and also the division of districts into wards, and the alteration of the number and boundaries of wards and the number and apportionment of members among wards, which matters are placed under the jurisdiction of the Local Government Board by Sect. 26 of the present Act (see p. 126).

<sup>4</sup> The words in the subsection are “Education Department.” But by the Board of Education Act, 1899 (62 and 63 Vict., c. 33), a Board of Education was established to take the place of the Education Department, including the Department of Science and Art. And her Majesty in Council is empowered to transfer to the Board of Education any powers of the Charity Commissioners or Board of Agriculture in matters relating to education.

<sup>5</sup> “Prescribed” in the L. G. A., 1888, means prescribed by the Local Government Board—see Sect. 87, subs. (4), of that Act. And although this, under the present Act, seems to produce a somewhat awkward overlapping of jurisdiction between the Local Government Board and the Commissioners appointed by the Committee of the Privy Council, it is difficult to see any escape from the conclusion that the provision in question will apply to schemes under the above section.

other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed<sup>5</sup> manner, and otherwise as the *Commissioners* think fit.

(3) The order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice . . . any number of *parochial* electors registered in *any parish to which the order relates*, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry,<sup>6</sup> and determine whether the order is to be confirmed or not.

(4) If any such petition is not presented, or, being presented, is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.<sup>7</sup>

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.<sup>8</sup>

## 2. TRUSTEES OF CHARITIES.

Local Government Act, 1894 (56 and 57 Vict., c. 73), sect. 33. See note (e) to sect. 16 of the present Act, p. 107.

<sup>6</sup> By Sect. 28, subs. (2), of the present Act (p. 131), certain provisions of the L. G. A., 1888, are made applicable to proceedings of the Local Government Board.—For these provisions see Appendix K, Part II. (p. 286).

<sup>7</sup> As observed in note (5) *supra*, these powers given to the Local Government Board seem to be something of a conflict of jurisdiction.

<sup>8</sup> By virtue of Sect. 59, subs. (6), of the L. G. A., 1888, an order under the above section may amend any local and personal Act. But power is given to the Commissioners by Sect. 16, subs. (1) (g), to provide by scheme for repealing or modifying local Acts (see p. 103).



## APPENDIX J.

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[See *London Government Act*, 1899, *Sect.* 23, *subs.* (3), *p.* 120.]

*Ecclesiastical Charities.*—*Local Government Act*, 1894 (56 and 57 Vict., c. 73), *sect.* 75, *subs.* (2). The expression “ecclesiastical charity” includes<sup>1</sup> a charity the endowment whereof is held for some one or more of the following purposes:—

- (a) For any spiritual purpose which is a legal purpose; or
- (b) for the benefit of any spiritual person or ecclesiastical officers as such; or
- (c) for use, if a building, as a church, chapel, mission-room, or Sunday school, or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or

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<sup>1</sup> “Includes.” The enumeration of objects is doubtless intended to be as exhaustive as possible, but the word “includes” is employed so as not to preclude a charity not clearly falling under any of the descriptions in the section from being held to be an ecclesiastical charity. The broadest rule of construction of charitable gifts is that the intentions of the founder are to be carried into effect, as far as they are capable of being so, and so far as they are not contrary to the policy of the law. So that while in charities entirely ecclesiastical, the religious opinions of the founder are of paramount importance, in educational charities his religious opinions are only of value where some directions may have been given by him relative to the religious instruction to be given to the pupils to be taught; while in eleemosynary charities his opinions and tenets are wholly to be disregarded as forming no indication of intention. The presumption is that he intended to include all, and the burden of proof lies on those who seek to exclude. *Attorney-General v. Calvert*, 23 Beav. 248 (1857), where the presumption was acted on, although the sole trustees were the parson and churchwardens. And similarly in *Att.-Gen. v. St. John's Hospital, Bath*, 2 Ch. D. 554 (1876), where the master of the Hospital must be a member of the Church of England, and perform the Church services in the hospital, and the trustees had the right of appointing the master, yet, as the charity was eleemosynary, it was held that the right of trusteeship should be free from any religious restriction.

The subject was fully discussed in special reference to *Sect.* 75, *sub.* (2), of the *L. G. A.*, 1894, in the two cases of *In re Perry Almshouses* and *In re Ross' Charity*, 1897, 2 Ch. 397; 1899, 1 Ch. 21.

(c) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.<sup>2</sup>

The expression shall also include any building which, in the opinion of the Charity Commissioners, has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression "affairs of the church" shall include the distribution of offertories or other collections made in any church.

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<sup>2</sup> By Sect. 23, subs. (5), of the present Act, p. 121, the Charity Commissioners have the same powers with respect to charities as they have under the L. G. A., 1894. By Sect. 14, subs. (3), of this last Act the Commissioners have power to sanction, in certain cases, the election of additional trustees of parochial charities, and have general powers of settling and altering schemes of administration. By subs. (7) of Sect. 33, the Local Government Board are required to consult the Charity Commissioners before making an order as to trustees of charities under subs. (2) of that section (see note (e) to Sect. 16 of the present Act, p. 107). And by Sect. 70, subs. (2), the Charity Commissioners are empowered to determine any question as to the appointment of trustees or beneficiaries or as to the persons in whom the property of any charity is vested; but subject to an appeal to the High Court.

## APPENDIX K.

[*See London Government Act, 1899, Sect. 28, p. 131.*]

## I. PROVISIONAL ORDERS BY THE LOCAL GOVERNMENT BOARD.

Public Health Act, 1875 (38 and 39 Vict., c. 55), sect. 297.—  
With respect to provisional orders authorised to be made by the Local Government Board under this Act,<sup>1</sup> the following enactments shall be made:—

(1) The Local Government Board shall not make any provisional order under this Act<sup>1</sup> unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates.

(2) Before making any such provisional order, the Local Government Board shall consider any objection which may be made thereto by any person affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections:

(3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act,<sup>1</sup> but any such order shall be of no force whatever unless and until it is confirmed by Parliament:

(4) If, while the Bill confirming such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner

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<sup>1</sup> This may be read as the present Act.



shall be allowed to appear and oppose as in the case of private bills :

(5) Any Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act,<sup>1</sup> and any Order in Council made in pursuance of any of the Sanitary Acts,<sup>2</sup> may be repealed, altered, or amended by any provisional order made by the Local Government Board and confirmed by Parliament :

(6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament :

(7) The making of a provisional order shall be *primâ facie* evidence that all the requirements of this Act,<sup>1</sup> in respect of proceedings required to be taken previously to the making of such provisional order, have been complied with :

(8) Every Act confirming any such provisional order shall be deemed to be a public general Act (*ib.*—sect. 298). The reasonable costs of any *borough council* in respect of provisional orders made in pursuance of this Act,<sup>1</sup> and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly,<sup>3</sup> and, if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.

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<sup>2</sup> The “Sanitary Acts” are, by Sect. 4 of the same Act, defined to be the Bakehouse Regulation Act, 1863 (26 and 27 Vict., c. 40); the Artizans and Labourers Dwellings Act, 1868 (31 and 32 Vict., c. 130); the Baths and Washhouses Acts, 1846 (9 and 10 Vict., c. 74), and 1847 (10 and 11 Vict., c. 6); the Labouring Classes Lodging Houses Acts, 1851 (14 and 15 Vict., c. 34), 1866 (29 and 30 Vict., c. 28), and 1867 (30 and 31 Vict., c. 28), and other Sanitary Acts named in Part I. of Sched. V. of the Act, which were repealed (except as relates to the Metropolis) by the Statute Law Revision Act, 1893 (56 and 57 Vict., c. 54). Practically, however, the sanitary legislation of the metropolis is contained in the Public Health (London) Act, 1891.

<sup>3</sup> With this qualification introduced into Sect. 28, subs. (1), of the present Act, that the expenses incidental to the provisional order shall be defrayed by the councils concerned in such proportions as the Local Government Board may determine. Compare note (c) to that Sect., p. 131.

II. PROCEEDINGS OF THE LOCAL GOVERNMENT BOARD.<sup>4</sup>

Local Government Act, 1888 (51 and 52 Vict., c. 41), sect. 87, Government Act, 1888 (51 and 52 Vict., c. 41), sect. 87, subs. (1). Where the Local Government Board are authorised by this Act<sup>1</sup> to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction, or approval to any matter, or otherwise to act under this Act,<sup>1</sup> they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry,<sup>5</sup> sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875,<sup>6</sup> shall apply as if they were herein re-enacted, and in terms made applicable to this Act.<sup>1</sup>

Subs. (5).—Where the Board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the Board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such

<sup>4</sup> Compare note (e) to Sect. 28, p. 132.

<sup>5</sup> Sect. 26 of the present Act (p. 126), which confers powers on the Local Government Board as to alterations of wards, does not make a local inquiry obligatory on the Board; but such inquiry is obligatory in cases coming under Sect. 54 of the L. G. A., 1888 (which include alterations of areas of borough councils); and under Sect. 57, subs. (3), of the same Act, alteration of parish boundaries, etc., see Appendix H., p. 280.

<sup>6</sup> Sections 293 to 296 of the Public Health Act, 1875 (38 and 39 Vict., c. 55):—

293. The Local Government Board may, from time to time, cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval, or consent is required by this Act.

294. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to, the said Board under this Act, and as to the parties by whom, or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have, in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which Poor-law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts. [As to these powers, see note (c) to Sect. 15 of the present Act, p. 101.]



proportions as the Board may direct, and the Board may certify the amount of the costs incurred, and any sum so certified and directed by the Board to be paid by any council or authority shall be a debt to the Crown from such council or authority.

### III. ARBITRATIONS BY THE LOCAL GOVERNMENT BOARD.

*Provisions of the Regulation of Railways Act, 1868, as amended and applied.*—Regulation of Railways Act, 1868 (31 and 32 Vict., c. 119), Sect. 30.—Whenever the *Local Government Board* elect to determine any matter as arbitrators, they may appoint an arbitrator to act for them, and his award or decision shall be deemed to be the award or decision of the *Local Government Board*.

If the arbitrator dies, or, in the judgment of the *Local Government Board*, becomes incapable or unfit, the *Local Government Board* may appoint another arbitrator.

*Ib.*, Sect. 31.—The *Local Government Board* may fix the remuneration of any arbitrator or umpire appointed by them,<sup>7</sup> and may, if they think fit, frame a scale of remuneration for arbitrators or umpires so appointed by them, and no arbitrator or umpire so appointed by them shall be entitled to any larger remuneration than the amount fixed by the *Local Government Board*.

*Ib.*, Sect. 32.—The provisions of sections eighteen to twenty-nine, both inclusive, of the Railway Companies Arbitration Act, 1859,<sup>7</sup> shall, so far as is consistent with the tenor thereof, apply

<sup>7</sup> *Railway Companies Arbitration Act, 1859* (22 and 23 Vict., c. 59), Sects. 18 to 29, as applied:—

Sect. 18. The arbitrator may call for the production of any documents or evidence in the possession or power of *the parties* respectively, or which they respectively can produce, and which the arbitrator shall think necessary for determining the matters referred, and may examine the witnesses on oath, and may administer the requisite oath.

Sect. 19. Except where and as *the parties* otherwise agree, the arbitrator may proceed in the business of the reference in such manner as he shall think fit.

Sect. 20. The arbitrator may proceed in the absence of all or any of *the parties* in every case in which, after giving notice in that behalf to the parties respectively, the arbitrator shall think fit so to proceed.

Sect. 21. The arbitrator may if he thinks fit make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Sect. 22. The award of the arbitrator, if made in writing under his hand, and ready to be delivered to *the parties* within such a time as *the parties* agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to the arbitrator, shall be binding and conclusive on all *the parties*.



to an arbitrator appointed by the *Local Government Board*, and to his arbitration and award.<sup>8</sup>

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Sect. 23. Provided always that (except where and as the *parties* otherwise agree) the *arbitrator*, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Sect. 24. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Sect. 25. Except only so far as *the parties* bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted, or suffered, shall be done, omitted, or suffered accordingly.

Sect. 26. Full effect shall be given by all the superior courts of law and equity in the United Kingdom, according to their respective jurisdiction, and by *the parties* respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this Act; and the performance or observance thereof may, where the Courts think fit, be compelled by distress infinite on the property of *the parties* respectively, or by any other process against *the parties* respectively or their respective property that the Courts or any judge thereof shall direct.

Sect. 27. Except where and as *the parties* otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator.

Sect. 28. Except where and as *the parties* otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by *the parties* in equal shares, and in other respects *the parties* shall bear their own respective costs.

Sect. 29. The submission to any arbitration in accordance with this Act may at any time be made a rule of any of Her Majesty's Superior Courts of Record on the application of any party interested; and the Court may remit the matter to the arbitrator with any directions the Court think fit.

<sup>8</sup> The Arbitration Act, 1889 (52 and 53 Vict., c. 49), will apply to all arbitrations under the present Act, except so far as it is inconsistent with the present Act or the regulations which it incorporates—Sect. 24 of the Arbitration Act, 1889. Hence the Local Government Board, where they act as arbitrators, can be compelled to state a case for the opinion of the High Court on any question of law arising in the arbitration under Sect. 19 of the same Act. *In re County Council of Kent and Sandgate Local Board*, 1895, 2 Q. B., 43.

## APPENDIX L.

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[See *London Government Act*, 1899, *Sect.* 33, *subs.* (2), *p.* 140.]

### TRANSITORY PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1894, APPLIED BY THE PRESENT ACT, AS APPLIED.

Local Government Act, 1894 (56 and 57 Vict., c. 73), *sect.* 85.

(1) Every rate and precept for contributions made before the appointed day<sup>1</sup> may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act<sup>1</sup> had not passed.

(2) The accounts of all receipts and expenditure before the appointed day<sup>1</sup> shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act<sup>1</sup> had not passed, but as soon as practicable after the appointed day;<sup>1</sup> and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3) All proceedings, legal and other, commenced before the appointed day may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with this Act.

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<sup>1</sup> Throughout these transitory clauses the “appointed day” must of course be taken as the appointed day under the present Act (see *Sect.* 33, *subs.* (1), *p.* 140), and the expression “this Act,” as the present Act.

(4) Every valuation list made for a parish divided by *or under* this Act shall continue in force until a new valuation list is made.

(5) The change of name of a *metropolitan* sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general, or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.<sup>2</sup>

*ib.*—sect. 86.—(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a *borough* council by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations, incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a *borough* council shall be discharged, paid, and satisfied by the *council*, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised, either by the authority who otherwise would have levied or exercised the same, or by the transferee, as the case may require.

(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate, so far as practicable, before the appointed day, all current debts and liabilities incurred by such authority.

*ib.*—sect. 87.—All such bye-laws, orders, and regulations of any authority whose powers and duties are transferred by this Act to any *borough* council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

*ib.*—sect. 88 (1).—If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a *borough* council, any action or proceeding, or any cause of action

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<sup>2</sup> This last provision is not, strictly speaking, transitory, nor is it applicable without considerable modification to the new boroughs. The present Act does very much more than change the names of the metropolitan local authorities, and it may well occur, that in applying provisions of other Acts, general and local, to the new conditions, questions of difficulty may arise from the fusion and separation of the districts of administrative jurisdiction.



or proceeding, is pending or existing by or against any authority in relation thereto, the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against *such* council as successors of the said authority in like manner as if this Act had not been passed.

(2) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the *borough* council, and may be enforced as fully and effectually as if, instead of the authority, the *said* council had been a party thereto.

## APPENDIX M.

PROVISIONS OF THE PUBLIC HEALTH (LONDON)  
ACT, 1891, IN CASE OF DEFAULT BY BOROUGH  
COUNCILS.

[*See London Government Act, 1899, Sect. 5 (1), and Schedule I., Part I.*]

Public Health (London) Act, 1891 (54 and 55 Vict., c. 76), sect. 100.—The county council, on it being proved to their satisfaction that any sanitary authority have made default in doing their duty under this Act . . . may institute any proceeding and do any act which the authority might have instituted or done for that purpose, and shall be entitled to recover from the sanitary authority in default all such expenses in and about the said proceeding or act as the county council incur, and are not recovered from any other person, and have not been incurred in any unsuccessful proceeding.

Sect. 101.—(1) Where complaint is made by the county council to the Local Government Board that a sanitary authority have made default in executing or enforcing any provisions which it is their duty to execute or enforce . . . the Local Government Board, if satisfied after due inquiry that the authority have been guilty of the alleged default, and that the complaint cannot be remedied under the other provisions of this Act, shall make an order limiting a time for the performance of the duty of such authority in the matter of such complaint. If such duty is not performed by the time limited in the order, the order may be enforced by writ of Mandamus, or the Local Government Board may appoint the county council to perform such duty.

(2) Where such appointment is made, the county council shall, for the purpose of the execution of their duties under the

said appointment, have all the powers of the defaulting sanitary authority, and all expenses incurred by the county council in the execution of the said duties, together with the costs of the previous proceedings, so far as not recovered from any other person, shall be a debt from the sanitary authority in default to the county council, and shall be paid by the sanitary authority out of any monies or rate applicable to the payment of the expenses of performing the duty in which they have made default.

(3) For the purpose of recovering such debt the county council, without prejudice to any other power of recovery, shall have the same power of levying the amount by a rate, and of requiring officers of the defaulting authority to pay over money in their hands, as the defaulting authority would have had in the case of expenses legally payable out of a rate raised by that authority.

(4) The county council shall pay any surplus of the rate so levied to or to the order of the defaulting authority.

(5) If any loan is required to be raised for the purpose of the execution of their duties under the said appointment, the county council, with the consent of the Local Government Board, may raise the same, and may for that purpose borrow the required sum in the name of the defaulting authority for the same period, on the same security, and on the same terms as that authority might have borrowed, and the principal and interest of such loan shall be a debt due from the defaulting authority, and shall be secured and may be recovered in like manner as if the loan had been borrowed by that authority.

(6) The surplus (if any) of any loan not applied for the purpose for which it is raised shall, after payment of the expenses of raising the same, be paid to or to the order of the defaulting authority, and be applied as if it were the surplus of a loan raised by that authority.





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